



Rep. Barbara Flynn Currie

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LRB096 21069 KTG 39496 a

1 AMENDMENT TO HOUSE BILL 6440

2 AMENDMENT NO. _____. Amend House Bill 6440 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Act on the Aging is amended by
5 changing Section 4.04 as follows:

6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

7 Sec. 4.04. Long Term Care Ombudsman Program.

8 (a) Long Term Care Ombudsman Program. The Department shall
9 establish a Long Term Care Ombudsman Program, through the
10 Office of State Long Term Care Ombudsman ("the Office"), in
11 accordance with the provisions of the Older Americans Act of
12 1965, as now or hereafter amended.

13 (b) Definitions. As used in this Section, unless the
14 context requires otherwise:

15 (1) "Access" has the same meaning as in Section 1-104
16 of the Nursing Home Care Act, as now or hereafter amended;

1 that is, it means the right to:

2 (i) Enter any long term care facility or assisted
3 living or shared housing establishment or supportive
4 living facility;

5 (ii) Communicate privately and without restriction
6 with any resident, regardless of age, who consents to
7 the communication;

8 (iii) Seek consent to communicate privately and
9 without restriction with any resident, regardless of
10 age;

11 (iv) Inspect the clinical and other records of a
12 resident, regardless of age, with the express written
13 consent of the resident;

14 (v) Observe all areas of the long term care
15 facility or supportive living facilities, assisted
16 living or shared housing establishment except the
17 living area of any resident who protests the
18 observation.

19 (2) "Long Term Care Facility" means (i) any facility as
20 defined by Section 1-113 of the Nursing Home Care Act, as
21 now or hereafter amended; and (ii) any skilled nursing
22 facility or a nursing facility which meets the requirements
23 of Section 1819(a), (b), (c), and (d) or Section 1919(a),
24 (b), (c), and (d) of the Social Security Act, as now or
25 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)
26 and 42 U.S.C. 1396r(a), (b), (c), and (d)).

1 (2.5) "Assisted living establishment" and "shared
2 housing establishment" have the meanings given those terms
3 in Section 10 of the Assisted Living and Shared Housing
4 Act.

5 (2.7) "Supportive living facility" means a facility
6 established under Section 5-5.01a of the Illinois Public
7 Aid Code.

8 (3) "State Long Term Care Ombudsman" means any person
9 employed by the Department to fulfill the requirements of
10 the Office of State Long Term Care Ombudsman as required
11 under the Older Americans Act of 1965, as now or hereafter
12 amended, and Departmental policy.

13 (3.1) "Ombudsman" means any designated representative
14 of a regional long term care ombudsman program; provided
15 that the representative, whether he is paid for or
16 volunteers his ombudsman services, shall be qualified and
17 designated by the Office to perform the duties of an
18 ombudsman as specified by the Department in rules and in
19 accordance with the provisions of the Older Americans Act
20 of 1965, as now or hereafter amended.

21 (c) Ombudsman; rules. The Office of State Long Term Care
22 Ombudsman shall be composed of at least one full-time ombudsman
23 and shall include a system of designated regional long term
24 care ombudsman programs. Each regional program shall be
25 designated by the State Long Term Care Ombudsman as a
26 subdivision of the Office and any representative of a regional

1 program shall be treated as a representative of the Office.

2 The Department, in consultation with the Office, shall
3 promulgate administrative rules in accordance with the
4 provisions of the Older Americans Act of 1965, as now or
5 hereafter amended, to establish the responsibilities of the
6 Department and the Office of State Long Term Care Ombudsman and
7 the designated regional Ombudsman programs. The administrative
8 rules shall include the responsibility of the Office and
9 designated regional programs to investigate and resolve
10 complaints made by or on behalf of residents of long term care
11 facilities, supportive living facilities, and assisted living
12 and shared housing establishments, including the option to
13 serve residents under the age of 60, relating to actions,
14 inaction, or decisions of providers, or their representatives,
15 of long term care facilities, of supported living facilities,
16 of assisted living and shared housing establishments, of public
17 agencies, or of social services agencies, which may adversely
18 affect the health, safety, welfare, or rights of such
19 residents. The Office and designated regional programs may
20 represent all residents, but are not required by this Act to
21 represent persons under 60 years of age, except to the extent
22 required by federal law. When necessary and appropriate,
23 representatives of the Office shall refer complaints to the
24 appropriate regulatory State agency. The Department, in
25 consultation with the Office, shall cooperate with the
26 Department of Human Services and other State agencies in

1 providing information and training to designated regional long
2 term care ombudsman programs about the appropriate assessment
3 and treatment (including information about appropriate
4 supportive services, treatment options, and assessment of
5 rehabilitation potential) of the residents they serve,
6 including children, persons with mental illness (other than
7 Alzheimer's disease and related disorders), and persons with
8 developmental disabilities.

9 The State Long Term Care Ombudsman and all other ombudsmen,
10 as defined in paragraph (3.1) of subsection (b) must submit to
11 background checks under the Health Care Worker Background Check
12 Act and receive training, as prescribed by the Illinois
13 Department on Aging, before visiting facilities. The training
14 must include information specific to assisted living
15 establishments, supportive living facilities, and shared
16 housing establishments and to the rights of residents
17 guaranteed under the corresponding Acts and administrative
18 rules.

19 (c-3) Advocacy for incapacitated residents. If a resident
20 is incapable of giving consent for the services of the Program
21 or if the guardian, agent, or health care surrogate of an
22 incapacitated resident refuses to give that consent or is
23 unavailable after good faith inquiries, then the Regional
24 Ombudsman may consult with the State Ombudsman. If the State
25 Ombudsman determines that the Program should continue to
26 advocate for the resident, then the representative of the

1 Program shall do so. This may include advocating for the
2 resident in the administrative process, including involuntary
3 discharges.

4 (c-5) Consumer Choice Information Reports. The Office
5 shall:

6 (1) In collaboration with the Attorney General, create
7 a Consumer Choice Information Report form to be completed
8 by all licensed long term care facilities to aid
9 Illinoisans and their families in making informed choices
10 about long term care. The Office shall create a Consumer
11 Choice Information Report for each type of licensed long
12 term care facility.

13 (2) Develop a database of Consumer Choice Information
14 Reports completed by licensed long term care facilities
15 that includes information in the following consumer
16 categories:

17 (A) Medical Care, Services, and Treatment.

18 (B) Special Services and Amenities.

19 (C) Staffing.

20 (D) Facility Statistics and Resident Demographics.

21 (E) Ownership and Administration.

22 (F) Safety and Security.

23 (G) Meals and Nutrition.

24 (H) Rooms, Furnishings, and Equipment.

25 (I) Family, Volunteer, and Visitation Provisions.

26 (3) Make this information accessible to the public,

1 including on the Internet by means of a hyperlink labeled
2 "Resident's Right to Know" on the Office's World Wide Web
3 home page.

4 (4) Have the authority, with the Attorney General, to
5 verify that information provided by a facility is accurate.

6 (5) Request a new report from any licensed facility
7 whenever it deems necessary.

8 (6) Include in and expand the Office's Consumer Choice
9 Information Report, for each type of licensed long term
10 care facility, additional information to improve the
11 safety in nursing facilities on each licensed long term
12 facility in the State of Illinois as well as information
13 regarding each facility's compliance with the relevant
14 State and federal statutes, rules, and standards; customer
15 satisfaction surveys; and information generated from
16 quality measures developed by the Centers for Medicare and
17 Medicaid Services.

18 (d) Access and visitation rights.

19 (1) In accordance with subparagraphs (A) and (E) of
20 paragraph (3) of subsection (c) of Section 1819 and
21 subparagraphs (A) and (E) of paragraph (3) of subsection
22 (c) of Section 1919 of the Social Security Act, as now or
23 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and
24 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
25 Older Americans Act of 1965, as now or hereafter amended
26 (42 U.S.C. 3058f), a long term care facility, supportive

1 living facility, assisted living establishment, and shared
2 housing establishment must:

3 (i) permit immediate access to any resident,
4 regardless of age, by a designated ombudsman; and

5 (ii) permit representatives of the Office, with
6 the permission of the resident's legal representative
7 or legal guardian, to examine a resident's clinical and
8 other records, regardless of the age of the resident,
9 and if a resident is unable to consent to such review,
10 and has no legal guardian, permit representatives of
11 the Office appropriate access, as defined by the
12 Department, in consultation with the Office, in
13 administrative rules, to the resident's records.

14 (2) Each long term care facility, supportive living
15 facility, assisted living establishment, and shared
16 housing establishment shall display, in multiple,
17 conspicuous public places within the facility accessible
18 to both visitors and residents and in an easily readable
19 format, the address and phone number of the Office of the
20 Long Term Care Ombudsman, in a manner prescribed by the
21 Office.

22 (e) Immunity. An ombudsman or any representative of the
23 Office participating in the good faith performance of his or
24 her official duties shall have immunity from any liability
25 (civil, criminal or otherwise) in any proceedings (civil,
26 criminal or otherwise) brought as a consequence of the

1 performance of his official duties.

2 (f) Business offenses.

3 (1) No person shall:

4 (i) Intentionally prevent, interfere with, or
5 attempt to impede in any way any representative of the
6 Office in the performance of his official duties under
7 this Act and the Older Americans Act of 1965; or

8 (ii) Intentionally retaliate, discriminate
9 against, or effect reprisals against any long term care
10 facility resident or employee for contacting or
11 providing information to any representative of the
12 Office.

13 (2) A violation of this Section is a business offense,
14 punishable by a fine not to exceed \$501.

15 (3) The Director of Aging, in consultation with the
16 Office, shall notify the State's Attorney of the county in
17 which the long term care facility, supportive living
18 facility, or assisted living or shared housing
19 establishment is located, or the Attorney General, of any
20 violations of this Section.

21 (g) Confidentiality of records and identities. The
22 Department shall establish procedures for the disclosure by the
23 State Ombudsman or the regional ombudsmen entities of files
24 maintained by the program. The procedures shall provide that
25 the files and records may be disclosed only at the discretion
26 of the State Long Term Care Ombudsman or the person designated

1 by the State Ombudsman to disclose the files and records, and
2 the procedures shall prohibit the disclosure of the identity of
3 any complainant, resident, witness, or employee of a long term
4 care provider unless:

5 (1) the complainant, resident, witness, or employee of
6 a long term care provider or his or her legal
7 representative consents to the disclosure and the consent
8 is in writing;

9 (2) the complainant, resident, witness, or employee of
10 a long term care provider gives consent orally; and the
11 consent is documented contemporaneously in writing in
12 accordance with such requirements as the Department shall
13 establish; or

14 (3) the disclosure is required by court order.

15 (h) Legal representation. The Attorney General shall
16 provide legal representation to any representative of the
17 Office against whom suit or other legal action is brought in
18 connection with the performance of the representative's
19 official duties, in accordance with the State Employee
20 Indemnification Act.

21 (i) Treatment by prayer and spiritual means. Nothing in
22 this Act shall be construed to authorize or require the medical
23 supervision, regulation or control of remedial care or
24 treatment of any resident in a long term care facility operated
25 exclusively by and for members or adherents of any church or
26 religious denomination the tenets and practices of which

1 include reliance solely upon spiritual means through prayer for
2 healing.

3 (j) The Long Term Care Ombudsman Fund is created as a
4 special fund in the State treasury to receive moneys for the
5 express purposes of this Section. All interest earned on moneys
6 in the fund shall be credited to the fund. Moneys contained in
7 the fund shall be used to support the purposes of this Section.
8 (Source: P.A. 95-620, eff. 9-17-07; 95-823, eff. 1-1-09;
9 96-328, eff. 8-11-09; 96-758, eff. 8-25-09.)

10 Section 10. The Illinois Health Facilities Planning Act is
11 amended by changing Section 14.1 as follows:

12 (20 ILCS 3960/14.1)

13 (Text of Section before amendment by P.A. 96-339)

14 (Section scheduled to be repealed on December 31, 2019)

15 Sec. 14.1. Denial of permit; other sanctions.

16 (a) The State Board may deny an application for a permit or
17 may revoke or take other action as permitted by this Act with
18 regard to a permit as the State Board deems appropriate,
19 including the imposition of fines as set forth in this Section,
20 for any one or a combination of the following:

21 (1) The acquisition of major medical equipment without
22 a permit or in violation of the terms of a permit.

23 (2) The establishment, construction, or modification
24 of a health care facility without a permit or in violation

1 of the terms of a permit.

2 (3) The violation of any provision of this Act or any
3 rule adopted under this Act.

4 (4) The failure, by any person subject to this Act, to
5 provide information requested by the State Board or Agency
6 within 30 days after a formal written request for the
7 information.

8 (5) The failure to pay any fine imposed under this
9 Section within 30 days of its imposition.

10 (a-5) For facilities licensed under the Nursing Home Care
11 Act, no permit shall be denied on the basis of prior operator
12 history, other than for actions specified under item (2), (4),
13 or (5) of Section 3-117 of the Nursing Home Care Act.

14 (b) Persons shall be subject to fines as follows:

15 (1) A permit holder who fails to comply with the
16 requirements of maintaining a valid permit shall be fined
17 an amount not to exceed 1% of the approved permit amount
18 plus an additional 1% of the approved permit amount for
19 each 30-day period, or fraction thereof, that the violation
20 continues.

21 (2) A permit holder who alters the scope of an approved
22 project or whose project costs exceed the allowable permit
23 amount without first obtaining approval from the State
24 Board shall be fined an amount not to exceed the sum of (i)
25 the lesser of \$25,000 or 2% of the approved permit amount
26 and (ii) in those cases where the approved permit amount is

1 exceeded by more than \$1,000,000, an additional \$20,000 for
2 each \$1,000,000, or fraction thereof, in excess of the
3 approved permit amount.

4 (3) A person who acquires major medical equipment or
5 who establishes a category of service without first
6 obtaining a permit or exemption, as the case may be, shall
7 be fined an amount not to exceed \$10,000 for each such
8 acquisition or category of service established plus an
9 additional \$10,000 for each 30-day period, or fraction
10 thereof, that the violation continues.

11 (4) A person who constructs, modifies, or establishes a
12 health care facility without first obtaining a permit shall
13 be fined an amount not to exceed \$25,000 plus an additional
14 \$25,000 for each 30-day period, or fraction thereof, that
15 the violation continues.

16 (5) A person who discontinues a health care facility or
17 a category of service without first obtaining a permit
18 shall be fined an amount not to exceed \$10,000 plus an
19 additional \$10,000 for each 30-day period, or fraction
20 thereof, that the violation continues. For purposes of this
21 subparagraph (5), facilities licensed under the Nursing
22 Home Care Act, with the exceptions of facilities operated
23 by a county or Illinois Veterans Homes, are exempt from
24 this permit requirement. However, facilities licensed
25 under the Nursing Home Care Act must comply with Section
26 3-423 of that Act and must provide the Board with 30-days'

1 written notice of its intent to close.

2 (6) A person subject to this Act who fails to provide
3 information requested by the State Board or Agency within
4 30 days of a formal written request shall be fined an
5 amount not to exceed \$1,000 plus an additional \$1,000 for
6 each 30-day period, or fraction thereof, that the
7 information is not received by the State Board or Agency.

8 (c) Before imposing any fine authorized under this Section,
9 the State Board shall afford the person or permit holder, as
10 the case may be, an appearance before the State Board and an
11 opportunity for a hearing before a hearing officer appointed by
12 the State Board. The hearing shall be conducted in accordance
13 with Section 10.

14 (d) All fines collected under this Act shall be transmitted
15 to the State Treasurer, who shall deposit them into the
16 Illinois Health Facilities Planning Fund.

17 (Source: P.A. 95-543, eff. 8-28-07.)

18 (Text of Section after amendment by P.A. 96-339)

19 (Section scheduled to be repealed on December 31, 2019)

20 Sec. 14.1. Denial of permit; other sanctions.

21 (a) The State Board may deny an application for a permit or
22 may revoke or take other action as permitted by this Act with
23 regard to a permit as the State Board deems appropriate,
24 including the imposition of fines as set forth in this Section,
25 for any one or a combination of the following:

1 (1) The acquisition of major medical equipment without
2 a permit or in violation of the terms of a permit.

3 (2) The establishment, construction, or modification
4 of a health care facility without a permit or in violation
5 of the terms of a permit.

6 (3) The violation of any provision of this Act or any
7 rule adopted under this Act.

8 (4) The failure, by any person subject to this Act, to
9 provide information requested by the State Board or Agency
10 within 30 days after a formal written request for the
11 information.

12 (5) The failure to pay any fine imposed under this
13 Section within 30 days of its imposition.

14 ~~(a 5) For facilities licensed under the Nursing Home Care~~
15 ~~Act or the MR/DD Community Care Act, no permit shall be denied~~
16 ~~on the basis of prior operator history, other than for actions~~
17 ~~specified under item (2), (4), or (5) of Section 3-117 of the~~
18 ~~Nursing Home Care Act or under item (2), (4), or (5) of Section~~
19 ~~3-117 of the MR/DD Community Care Act.~~

20 (b) Persons shall be subject to fines as follows:

21 (1) A permit holder who fails to comply with the
22 requirements of maintaining a valid permit shall be fined
23 an amount not to exceed 1% of the approved permit amount
24 plus an additional 1% of the approved permit amount for
25 each 30-day period, or fraction thereof, that the violation
26 continues.

1 (2) A permit holder who alters the scope of an approved
2 project or whose project costs exceed the allowable permit
3 amount without first obtaining approval from the State
4 Board shall be fined an amount not to exceed the sum of (i)
5 the lesser of \$25,000 or 2% of the approved permit amount
6 and (ii) in those cases where the approved permit amount is
7 exceeded by more than \$1,000,000, an additional \$20,000 for
8 each \$1,000,000, or fraction thereof, in excess of the
9 approved permit amount.

10 (3) A person who acquires major medical equipment or
11 who establishes a category of service without first
12 obtaining a permit or exemption, as the case may be, shall
13 be fined an amount not to exceed \$10,000 for each such
14 acquisition or category of service established plus an
15 additional \$10,000 for each 30-day period, or fraction
16 thereof, that the violation continues.

17 (4) A person who constructs, modifies, or establishes a
18 health care facility without first obtaining a permit shall
19 be fined an amount not to exceed \$25,000 plus an additional
20 \$25,000 for each 30-day period, or fraction thereof, that
21 the violation continues.

22 (5) A person who discontinues a health care facility or
23 a category of service without first obtaining a permit
24 shall be fined an amount not to exceed \$10,000 plus an
25 additional \$10,000 for each 30-day period, or fraction
26 thereof, that the violation continues. For purposes of this

1 subparagraph (5), facilities licensed under the Nursing
2 Home Care Act or the MR/DD Community Care Act, with the
3 exceptions of facilities operated by a county or Illinois
4 Veterans Homes, are exempt from this permit requirement.
5 However, facilities licensed under the Nursing Home Care
6 Act or the MR/DD Community Care Act must comply with
7 Section 3-423 of the Nursing Home Care Act or Section 3-423
8 of the MR/DD Community Care Act and must provide the Board
9 with 30-days' written notice of its intent to close.

10 (6) A person subject to this Act who fails to provide
11 information requested by the State Board or Agency within
12 30 days of a formal written request shall be fined an
13 amount not to exceed \$1,000 plus an additional \$1,000 for
14 each 30-day period, or fraction thereof, that the
15 information is not received by the State Board or Agency.

16 (c) Before imposing any fine authorized under this Section,
17 the State Board shall afford the person or permit holder, as
18 the case may be, an appearance before the State Board and an
19 opportunity for a hearing before a hearing officer appointed by
20 the State Board. The hearing shall be conducted in accordance
21 with Section 10.

22 (d) All fines collected under this Act shall be transmitted
23 to the State Treasurer, who shall deposit them into the
24 Illinois Health Facilities Planning Fund.

25 (Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10.)

1 Section 15. The State Finance Act is amended by adding
2 Sections 5.777, 5.778, 6z-82, and 6z-83 as follows:

3 (30 ILCS 105/5.777 new)

4 Sec. 5.777. The Aging Services Safety Fund.

5 (30 ILCS 105/5.778 new)

6 Sec. 5.778. The Public Health Services Safety Fund.

7 (30 ILCS 105/6z-82 new)

8 Sec. 6z-82. Aging Services Safety Fund.

9 (a) The Aging Services Safety Fund is created in the State
10 treasury as a special fund.

11 (b) The Fund is created for the purpose of receiving and
12 disbursing moneys in accordance with this Section.
13 Disbursements from the Fund shall be made, subject to
14 appropriation, for payment of expenses incurred by the
15 Department on Aging for monitoring and regulation of long term
16 care services provided in Illinois.

17 (c) The Fund shall consist of the following:

18 (1) Moneys transferred from the Long-Term Care
19 Provider Fund pursuant to Section 5B-8 of the Illinois
20 Public Aid Code.

21 (2) All federal moneys received as a result of
22 expenditures made by the Department on Aging that are
23 attributable to moneys deposited in the Fund.

1 (3) All other moneys received for the Fund from any
2 other source.

3 (4) Interest earned upon moneys in the Fund.

4 (30 ILCS 105/6z-83 new)

5 Sec. 6z-83. Public Health Services Safety Fund.

6 (a) The Public Health Services Safety Fund is created in
7 the State treasury as a special fund.

8 (b) The Fund is created for the purpose of receiving and
9 disbursing moneys in accordance with this Section.
10 Disbursements from the Fund shall be made, subject to
11 appropriation, for payment of expenses incurred by the
12 Department of Public Health for the survey, review, monitoring,
13 and regulation of long term care services provided in Illinois,
14 including, but not limited to, the conduct and analysis of
15 background checks for identified offenders under the Nursing
16 Home Care Act.

17 (c) The Fund shall consist of the following:

18 (1) Moneys transferred from the Long-Term Care
19 Provider Fund pursuant to Section 5B-8 of the Illinois
20 Public Aid Code.

21 (2) All federal moneys received as a result of
22 expenditures made by the Department of Public Health that
23 are attributable to moneys deposited in the Fund.

24 (3) All other moneys received for the Fund from any
25 other source.

1 (4) Interest earned upon moneys in the Fund.

2 Section 20. The Nursing Home Care Act is amended by
3 changing the Sections 1-112, 1-117, 1-122, 1-129, 1-130, 3-103,
4 3-119, 3-202, 3-202.3, 3-206, 3-206.01, 3-206.02, 3-212,
5 3-301, 3-303, 3-303.2, 3-305, 3-306, 3-309, 3-310, 3-318,
6 3-402, 3-409, 3-410, 3-415, 3-417, 3-420, 3-421, 3-422, 3-701,
7 3-702, 3-704, and 3-707 and by adding Sections 1-114.001,
8 1-117.001, 1-120.1, 1-131, 1-132, 3-404.1, and 3-715 as
9 follows:

10 (210 ILCS 45/1-112) (from Ch. 111 1/2, par. 4151-112)

11 Sec. 1-112. Emergency. "Emergency" means a situation,
12 physical condition or one or more practices, methods or
13 operations which present imminent danger of death or serious
14 physical or mental harm to residents of a facility. An
15 emergency includes, but is not limited to, circumstances where
16 an identified offender poses a serious threat or danger to the
17 physical safety of other residents in a facility.

18 (Source: P.A. 81-223.)

19 (210 ILCS 45/1-114.001 new)

20 Sec. 1-114.001. High risk designation. "High risk
21 designation" means a regulatory code section, or subsection,
22 that has been identified by the Department through rulemaking
23 to be inherently necessary to the health, safety, and welfare

1 of a resident.

2 (210 ILCS 45/1-117) (from Ch. 111 1/2, par. 4151-117)

3 Sec. 1-117. Neglect. "Neglect" means a failure in a
4 facility to provide appropriate and timely medical care, mental
5 health treatment, psychiatric rehabilitation, personal care,
6 or assistance with activities of daily living if the failure
7 creates a condition or occurrence where residents are subjected
8 to a risk of physical or mental injury or a risk of
9 deterioration of a resident's physical or mental condition.
10 "Neglect" also means a failure by a facility to follow its own
11 written policies, care plans, regulations, or guidelines or the
12 violation in a facility of the Nursing Home Care Act or
13 regulations promulgated thereunder if the failure or violation
14 creates a condition or occurrence where residents are subjected
15 to a risk of physical or mental injury or a risk of
16 deterioration of a resident's physical or mental condition
17 ~~adequate medical or personal care or maintenance, which failure~~
18 ~~results in physical or mental injury to a resident or in the~~
19 ~~deterioration of a resident's physical or mental condition.~~

20 (Source: P.A. 81-223.)

21 (210 ILCS 45/1-117.001 new)

22 Sec. 1-117.001. Mental health technician. "Mental health
23 technician" means an individual employed by a long-term care
24 facility who provides services for mentally ill residents

1 including, but not limited to, psychiatric evaluation, crisis
2 intervention, rehabilitation, and activities of daily living.

3 (210 ILCS 45/1-120.1 new)

4 Sec. 1-120.1. Provisional admission period. "Provisional
5 admission period" means the time between the admission of an
6 identified offender as defined in Section 1-114.01 and the
7 admitting facility's receipt of the criminal history analysis
8 report.

9 (210 ILCS 45/1-122) (from Ch. 111 1/2, par. 4151-122)

10 Sec. 1-122. Resident. "Resident" means a person ~~residing in~~
11 ~~and~~ receiving personal or medical care, including, but not
12 limited to, mental health treatment, psychiatric
13 rehabilitation, physical rehabilitation, and assistance with
14 activities of daily living, care from a facility or from an
15 individual required by the Illinois Healthcare Worker
16 Background Check Act, 225 ILCS 46/, to be included in the
17 health care worker registry.

18 (Source: P.A. 81-223.)

19 (210 ILCS 45/1-129) (from Ch. 111 1/2, par. 4151-129)

20 Sec. 1-129. Type "AA" violation. A "Type 'AA' violation"
21 means any of the following:

22 (1) Any single violation of this Act or of the rules
23 promulgated thereunder, regardless of the Department's

1 high risk designation, relating to the operation and
2 maintenance of a facility, that results in or substantially
3 contributes to the cause of the death of a resident. If the
4 Department proves by a preponderance of the evidence that a
5 violation of this Act or rules occurred and that a resident
6 died, then a rebuttable presumption arises that the
7 resident's death resulted from the facility's violation of
8 this Act or rules.

9 (2) Anytime a facility fails to comply with 5 or more
10 regulatory code sections assigned with high risk
11 designations.

12 (3) Anytime a facility fails to comply with 7 or more
13 regulatory code sections not assigned with high risk
14 designations. A "Type 'A' violation" means a violation of
15 this Act or of the rules promulgated thereunder which
16 creates a condition or occurrence relating to the operation
17 and maintenance of a facility presenting a substantial
18 probability that death or serious mental or physical harm
19 to a resident will result therefrom.

20 (Source: P.A. 81-223.)

21 (210 ILCS 45/1-130) (from Ch. 111 1/2, par. 4151-130)

22 Sec. 1-130. Type "A" violation. A "Type 'A' violation"
23 means any of the following:

24 (1) Any single violation of this Act or of the rules
25 promulgated thereunder, regardless of the designation by

1 the Department to be high risk, that results in or
2 substantially contributes to the cause of serious mental or
3 physical harm to a resident. If the Department proves by a
4 preponderance of the evidence that a violation of this Act
5 or rules occurred and that a resident suffered serious
6 mental or physical harm, then a rebuttable presumption
7 arises that the serious mental or physical harm to the
8 resident resulted from the facility's violation of this Act
9 or rules.

10 (2) Anytime a facility fails to comply with 3 or more
11 regulatory code sections assigned with high risk
12 designations.

13 (3) Anytime a facility fails to comply with 5 or more
14 regulatory code sections not assigned with high risk
15 designations. A "Type 'B' violation" means a violation of
16 this Act or of the rules promulgated thereunder which
17 creates a condition or occurrence relating to the operation
18 and maintenance of a facility directly threatening to the
19 health, safety or welfare of a resident.

20 (Source: P.A. 81-223.)

21 (210 ILCS 45/1-131 new)

22 Sec. 1-131. Type "B" violations. A "Type 'B' violation"
23 means any of the following:

24 (1) Anytime a facility fails to comply with a single
25 violation of a regulatory code section assigned with a high

1 risk designation.

2 (2) Anytime a facility fails to comply with 3 or more
3 regulatory code sections not assigned with high risk
4 designations.

5 (3) Any single violation of a regulatory code section,
6 regardless of the regulatory code section's high risk
7 designation, that results in or substantially contributes
8 to a situation that is directly threatening to the health,
9 safety, or welfare of a resident. If the Department proves
10 by a preponderance of the evidence that a violation of the
11 regulatory code section occurred and that a situation was
12 directly threatening to the health, safety, or welfare of a
13 resident, then a rebuttable presumption arises that the
14 situation that was directly threatening to the health,
15 safety, or welfare of a resident resulted from the
16 facility's violation of the regulatory code section.

17 (210 ILCS 45/1-132 new)

18 Sec. 1-132. Type "C" violation. A "Type 'C' violation"
19 means anytime a facility fails to comply with any single
20 regulatory code section not assigned with a high risk
21 designation.

22 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

23 Sec. 3-103. The procedure for obtaining a valid license
24 shall be as follows:

1 (1) Application to operate a facility shall be made to
2 the Department on forms furnished by the Department.

3 (2) All license applications shall be accompanied with
4 an application fee. The fee for an annual license shall be
5 \$100 per licensed bed per year for skilled nursing and
6 intermediate care and \$50 per licensed bed per year for
7 sheltered care ~~\$995~~. Facilities that pay a fee or
8 assessment pursuant to Article V-C of the Illinois Public
9 Aid Code shall be exempt from the license fee imposed under
10 this item (2). The fee for a 2-year license shall be double
11 the fee for the annual license set forth in the preceding
12 sentence. The fees collected shall be deposited with the
13 State Treasurer into the Long Term Care Monitor/Receiver
14 Fund, which has been created as a special fund in the State
15 treasury. This special fund is to be used by the Department
16 for expenses related to the appointment of monitors and
17 receivers as contained in Sections 3-501 through 3-517 of
18 this Act, for the enforcement of this Act, and for
19 implementation of the Abuse Prevention Review Team Act. The
20 Department may reduce or waive a penalty pursuant to
21 Section 3-308 only if that action will not threaten the
22 ability of the Department to meet the expenses required to
23 be met by the Long Term Care Monitor/Receiver Fund. At the
24 end of each fiscal year, any funds in excess of \$1,000,000
25 held in the Long Term Care Monitor/Receiver Fund shall be
26 deposited in the State's General Revenue Fund. The

1 application shall be under oath and the submission of false
2 or misleading information shall be a Class A misdemeanor.
3 The application shall contain the following information:

4 (a) The name and address of the applicant if an
5 individual, and if a firm, partnership, or
6 association, of every member thereof, and in the case
7 of a corporation, the name and address thereof and of
8 its officers and its registered agent, and in the case
9 of a unit of local government, the name and address of
10 its chief executive officer;

11 (b) The name and location of the facility for which
12 a license is sought;

13 (c) The name of the person or persons under whose
14 management or supervision the facility will be
15 conducted;

16 (d) The number and type of residents for which
17 maintenance, personal care, or nursing is to be
18 provided; and

19 (e) Such information relating to the number,
20 experience, and training of the employees of the
21 facility, any management agreements for the operation
22 of the facility, and of the moral character of the
23 applicant and employees as the Department may deem
24 necessary.

25 (3) Each initial application shall be accompanied by a
26 financial statement setting forth the financial condition

1 of the applicant and by a statement from the unit of local
2 government having zoning jurisdiction over the facility's
3 location stating that the location of the facility is not
4 in violation of a zoning ordinance. An initial application
5 for a new facility shall be accompanied by a permit as
6 required by the "Illinois Health Facilities Planning Act".
7 After the application is approved, the applicant shall
8 advise the Department every 6 months of any changes in the
9 information originally provided in the application.

10 (4) Other information necessary to determine the
11 identity and qualifications of an applicant to operate a
12 facility in accordance with this Act shall be included in
13 the application as required by the Department in
14 regulations.

15 (Source: P.A. 96-758, eff. 8-25-09.)

16 (210 ILCS 45/3-119) (from Ch. 111 1/2, par. 4153-119)

17 Sec. 3-119. (a) The Department, after notice to the
18 applicant or licensee, may suspend, revoke or refuse to renew a
19 license in any case in which the Department finds any of the
20 following:

21 (1) There has been a substantial failure to comply with
22 this Act or the rules and regulations promulgated by the
23 Department under this Act. A substantial failure by a
24 facility includes, but is not limited to, a past history of
25 adverse State licensure or federal actions, termination of

1 Medicare or Medicaid funding by the Centers for Medicare
2 and Medicaid Services (CMS), or a failure to pay fine
3 assessments levied pursuant to a final administrative
4 decision by the Director.

5 (2) Conviction of the licensee, or of the person
6 designated to manage or supervise the facility, of a
7 felony, or of 2 or more misdemeanors involving moral
8 turpitude, during the previous 5 years as shown by a
9 certified copy of the record of the court of conviction.

10 (3) Personnel is insufficient in number or unqualified
11 by training or experience to properly care for the number
12 and type of residents served by the facility.

13 (4) Financial or other resources are insufficient to
14 conduct and operate the facility in accordance with
15 standards promulgated by the Department under this Act.

16 (5) The facility is not under the direct supervision of
17 a full-time administrator, as defined by regulation, who is
18 licensed, if required, under the Nursing Home
19 Administrators Licensing and Disciplinary Act.

20 (a-5) The Department, after notice to the applicant or
21 licensee, may immediately suspend a license in any case where
22 the Department finds that the public interest, safety, or
23 welfare requires emergency action, and where the Department
24 incorporates a finding to that effect in its order. Summary
25 suspension of a license may be ordered pending proceedings for
26 revocation as described in subsection (a) or other action.

1 Those proceedings shall be promptly instituted and determined.
2 The Department shall immediately notify the facility of the
3 time, date, and venue of the proceedings. A Department finding
4 that the public interest, safety, or welfare requires that
5 action may include, but is not limited to, any of the
6 following:

7 (1) Two Type AA violations committed in a 3-year
8 period;

9 (2) Two or more Type "A" violations within a single
10 survey or investigation; or

11 (3) A substantial failure of the facility to comply
12 with the rules and regulations promulgated by the
13 Department.

14 (b) Notice under this Section shall include a clear and
15 concise statement of the violations on which the nonrenewal or
16 revocation is based, the statute or rule violated and notice of
17 the opportunity for a hearing under Section 3-703.

18 (c) If a facility desires to contest the nonrenewal or
19 revocation of a license, the facility shall, within 10 days
20 after receipt of notice under subsection (b) of this Section,
21 notify the Department in writing of its request for a hearing
22 under Section 3-703. Upon receipt of the request the Department
23 shall send notice to the facility and hold a hearing as
24 provided under Section 3-703.

25 (d) The effective date of nonrenewal or revocation of a
26 license by the Department shall be any of the following:

1 (1) Until otherwise ordered by the circuit court,
2 revocation is effective on the date set by the Department
3 in the notice of revocation, or upon final action after
4 hearing under Section 3-703, whichever is later.

5 (2) Until otherwise ordered by the circuit court,
6 nonrenewal is effective on the date of expiration of any
7 existing license, or upon final action after hearing under
8 Section 3-703, whichever is later; however, a license shall
9 not be deemed to have expired if the Department fails to
10 timely respond to a timely request for renewal under this
11 Act or for a hearing to contest nonrenewal under paragraph
12 (c).

13 (3) The Department may extend the effective date of
14 immediate suspension pursuant to subsection (a-5) of this
15 Section, license revocation pursuant to subsection (a) of
16 this Section, or expiration in any case in order to permit
17 orderly removal and relocation of residents.

18 The Department may refuse to issue or may suspend the
19 license of any person who fails to file a return, or to pay the
20 tax, penalty or interest shown in a filed return, or to pay any
21 final assessment of tax, penalty or interest, as required by
22 any tax Act administered by the Illinois Department of Revenue,
23 until such time as the requirements of any such tax Act are
24 satisfied.

25 (Source: P.A. 95-331, eff. 8-21-07.)

1 (210 ILCS 45/3-202) (from Ch. 111 1/2, par. 4153-202)

2 Sec. 3-202. The Department shall prescribe minimum
3 standards for facilities. These standards shall regulate:

4 (1) Location and construction of the facility,
5 including plumbing, heating, lighting, ventilation, and
6 other physical conditions which shall ensure the health,
7 safety, and comfort of residents and their protection from
8 fire hazard;

9 (2) Number and qualifications of all personnel,
10 including management and nursing personnel, having
11 responsibility for any part of the care given to residents;
12 specifically, the Department shall (i) establish staffing
13 ratios for facilities which shall specify the number of
14 staff hours per resident of care that are needed for
15 professional nursing care for various types of facilities
16 or areas within facilities; (ii) require consistent
17 assignment of the same nursing and other direct care staff
18 to the same residents, to the extent circumstances within
19 the control of the facility permit such assignment; and
20 (iii) respect requests by staff for reassignment;

21 Effective July 1, 2010, for each resident needing
22 skilled care, a minimum staffing ratio of 3.0 hours of
23 nursing and personal care each day must be provided and for
24 each resident needing intermediate care, 2.0 hours of
25 nursing and personal care each day must be provided;

26 Effective July 1, 2011, the minimum staffing ratios

1 shall be increased to 3.25 hours of nursing and personal
2 care each day for a resident needing skilled care and 2.2
3 hours of nursing and personal care each day for a resident
4 needing intermediate care;

5 Effective July 1, 2012, the minimum staffing ratios
6 shall be increased to 3.5 hours of nursing and personal
7 care each day for a resident needing skilled care and 2.4
8 hours of nursing and personal care each day for a resident
9 needing intermediate care;

10 Effective July 1, 2013, the minimum staffing ratios
11 shall be increased to 3.75 hours of nursing and personal
12 care each day for a resident needing skilled care and 2.6
13 hours of nursing and personal care each day for a resident
14 needing intermediate care;

15 Effective July 1, 2014, the minimum staffing ratios
16 shall be increased to 4.1 hours of nursing and personal
17 care each day for a resident needing skilled care and 2.8
18 hours of nursing and personal care each day for a resident
19 needing intermediate care;

20 (3) All sanitary conditions within the facility and its
21 surroundings, including water supply, sewage disposal,
22 food handling, and general hygiene, which shall ensure the
23 health and comfort of residents;

24 (4) Diet related to the needs of each resident based on
25 good nutritional practice and on recommendations which may
26 be made by the physicians attending the resident;

1 (5) Equipment essential to the health and welfare of
2 the residents;

3 (6) A program of habilitation and rehabilitation for
4 those residents who would benefit from such programs;

5 (7) A program for adequate maintenance of physical
6 plant and equipment;

7 (8) Adequate accommodations, staff and services for
8 the number and types of residents for whom the facility is
9 licensed to care, including standards for temperature and
10 relative humidity within comfort zones determined by the
11 Department based upon a combination of air temperature,
12 relative humidity and air movement. Such standards shall
13 also require facility plans that provide for health and
14 comfort of residents at medical risk as determined by the
15 attending physician whenever the temperature and relative
16 humidity are outside such comfort zones established by the
17 Department. The standards must include a requirement that
18 areas of a nursing home used by residents of the nursing
19 home be air conditioned and heated by means of operable
20 air-conditioning and heating equipment. The areas subject
21 to this air-conditioning and heating requirement include,
22 without limitation, bedrooms or common areas such as
23 sitting rooms, activity rooms, living rooms, community
24 rooms, and dining rooms. No later than July 1, 2008, the
25 Department shall submit a report to the General Assembly
26 concerning the impact of the changes made by this

1 amendatory Act of the 95th General Assembly;

2 (9) Development of evacuation and other appropriate
3 safety plans for use during weather, health, fire, physical
4 plant, environmental and national defense emergencies; and

5 (10) Maintenance of minimum financial or other
6 resources necessary to meet the standards established
7 under this Section, and to operate and conduct the facility
8 in accordance with this Act.

9 (Source: P.A. 95-31, eff. 8-9-07.)

10 (210 ILCS 45/3-202.3)

11 Sec. 3-202.3. Comprehensive resident care plans. Every
12 facility shall develop and implement a comprehensive care plan
13 regarding the provision of services, including assessment,
14 discharge planning, and treatment, by nursing facilities for
15 all residents. Care plans for all residents, regardless of
16 their level of functioning, mental illness, or disability,
17 within long-term care facilities shall ensure the support and
18 services necessary to attain the highest level of independent
19 functioning and prepare the resident to live in the least
20 restrictive setting appropriate for the resident's physical,
21 personal care, developmental, and mental health needs. The
22 Department of Public Health shall file with the Joint Committee
23 on Administrative Rules, pursuant to the Illinois
24 Administrative Procedure Act, a proposed rule, or a proposed
25 amendment to an existing rule, consistent with this Section.

1 ~~(Repealed).~~

2 (Source: P.A. 94-163, eff. 7-11-05. Repealed by P.A. 94-752,
3 eff. 5-10-06.)

4 (210 ILCS 45/3-206) (from Ch. 111 1/2, par. 4153-206)

5 Sec. 3-206. The Department shall prescribe a curriculum for
6 training nursing assistants, habilitation aides, and child
7 care aides.

8 (a) No person, except a volunteer who receives no
9 compensation from a facility and is not included for the
10 purpose of meeting any staffing requirements set forth by the
11 Department, shall act as a nursing assistant, habilitation
12 aide, or child care aide in a facility, nor shall any person,
13 under any other title, not licensed, certified, or registered
14 to render medical care by the Department of Professional
15 Regulation, assist with the personal, medical, or nursing care
16 of residents in a facility, unless such person meets the
17 following requirements:

18 (1) Be at least 16 years of age, of temperate habits
19 and good moral character, honest, reliable and
20 trustworthy;

21 (2) Be able to speak and understand the English
22 language or a language understood by a substantial
23 percentage of the facility's residents;

24 (3) Provide evidence of employment or occupation, if
25 any, and residence for 2 years prior to his present

1 employment;

2 (4) Have completed at least 8 years of grade school or
3 provide proof of equivalent knowledge;

4 (5) Begin a current course of training for nursing
5 assistants, habilitation aides, or child care aides,
6 approved by the Department, within 45 days of initial
7 employment in the capacity of a nursing assistant,
8 habilitation aide, or child care aide at any facility. Such
9 courses of training shall be successfully completed within
10 120 days of initial employment in the capacity of nursing
11 assistant, habilitation aide, or child care aide at a
12 facility. Nursing assistants, habilitation aides, and
13 child care aides who are enrolled in approved courses in
14 community colleges or other educational institutions on a
15 term, semester or trimester basis, shall be exempt from the
16 120 day completion time limit. The Department shall adopt
17 rules for such courses of training. These rules shall
18 include procedures for facilities to carry on an approved
19 course of training within the facility.

20 The Department may accept comparable training in lieu
21 of the 120 hour course for student nurses, foreign nurses,
22 military personnel, or employees ~~employes~~ of the
23 Department of Human Services.

24 The facility shall develop and implement procedures,
25 which shall be approved by the Department, for an ongoing
26 review process, which shall take place within the facility,

1 for nursing assistants, habilitation aides, and child care
2 aides.

3 At the time of each regularly scheduled licensure
4 survey, or at the time of a complaint investigation, the
5 Department may require any nursing assistant, habilitation
6 aide, or child care aide to demonstrate, either through
7 written examination or action, or both, sufficient
8 knowledge in all areas of required training. If such
9 knowledge is inadequate the Department shall require the
10 nursing assistant, habilitation aide, or child care aide to
11 complete inservice training and review in the facility
12 until the nursing assistant, habilitation aide, or child
13 care aide demonstrates to the Department, either through
14 written examination or action, or both, sufficient
15 knowledge in all areas of required training; and

16 (6) Be familiar with and have general skills related to
17 resident care.

18 (a-0.5) An educational entity, other than a secondary
19 school, conducting a nursing assistant, habilitation aide, or
20 child care aide training program shall initiate a ~~UCIA~~ criminal
21 history record check in accordance with the Health Care Worker
22 Background Check Act prior to entry of an individual into the
23 training program. A secondary school may initiate a ~~UCIA~~
24 criminal history record check ~~prior to the entry of an~~
25 ~~individual into~~ a training program.

26 (a-1) Nursing assistants, habilitation aides, or child

1 care aides seeking to be included on the registry on or after
2 January 1, 1996 must authorize the Department of Public Health
3 or its designee ~~that tests nursing assistants~~ to request a ~~UCIA~~
4 criminal history records check in accordance with the Health
5 Care Worker Background Check Act ~~check~~ and submit all necessary
6 information. An individual shall not appear on the registry
7 without a criminal history records check.

8 (b) Persons subject to this Section shall perform their
9 duties under the supervision of a licensed nurse.

10 (c) It is unlawful for any facility to employ any person in
11 the capacity of nursing assistant, habilitation aide, or child
12 care aide, or under any other title, not licensed by the State
13 of Illinois to assist in the personal, medical, or nursing care
14 of residents in such facility unless such person has complied
15 with this Section.

16 (d) Proof of compliance by each employee with the
17 requirements set out in this Section shall be maintained for
18 each such employee by each facility in the individual personnel
19 folder of the employee. Proof of training shall be obtained
20 only from the Health Care Worker Registry.

21 (e) Each facility shall obtain access to the health care
22 worker registry's web application and maintain the employment
23 and demographic information ~~certify to the Department on a form~~
24 ~~provided by the Department the name and residence address~~ of
25 each employee, and shall verify by the category and type of
26 employment that each employee subject to this Section meets all

1 the requirements of this Section.

2 (f) Any facility that is operated under Section 3-803 shall
3 be exempt from the requirements of this Section.

4 (g) Each skilled nursing and intermediate care facility
5 that admits persons who are diagnosed as having Alzheimer's
6 disease or related dementias shall require all nursing
7 assistants, habilitation aides, or child care aides, who did
8 not receive 12 hours of training in the care and treatment of
9 such residents during the training required under paragraph (5)
10 of subsection (a), to obtain 12 hours of in-house training in
11 the care and treatment of such residents. If the facility does
12 not provide the training in-house, the training shall be
13 obtained from other facilities, community colleges or other
14 educational institutions that have a recognized course for such
15 training. The Department shall, by rule, establish a recognized
16 course for such training. The Department's rules shall provide
17 that such training may be conducted in-house at each facility
18 subject to the requirements of this subsection, in which case
19 such training shall be monitored by the Department.

20 The Department's rules shall also provide for
21 circumstances and procedures whereby any person who has
22 received training that meets the requirements of this
23 subsection shall not be required to undergo additional training
24 if he or she is transferred to or obtains employment at a
25 different facility, or a different type of facility other than
26 long-term care, but remains continuously employed for pay as a

1 nursing assistant, habilitation aide, or child care aide.
2 Licensed sheltered care facilities shall be exempt from the
3 requirements of this Section.

4 (Source: P.A. 91-598, eff. 1-1-00.)

5 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par.
6 4153-206.01)

7 Sec. 3-206.01. Health care worker registry.

8 (a) The Department, or its designee, shall establish and
9 maintain a registry of all individuals who have satisfactorily
10 completed the training required by Section 3-206, or who have
11 begun a current course of training as set forth in Section
12 3-206, or who are otherwise acting as a nursing assistant,
13 habilitation aide, home health aide, mental health technician,
14 or child care aide. The registry shall include the individual's
15 ~~name of the nursing assistant, habilitation aide, or child care~~
16 ~~aide,~~ his or her current address, Social Security number, and
17 the date and location of the training course completed by the
18 individual, and whether the individual has any disqualifying
19 conviction after the date of the individual's last criminal
20 records check. Any individual placed on the registry is
21 required to inform the Department of any change of address
22 within 30 days. A facility shall not employ an individual as a
23 nursing assistant, habilitation aide, home health aide, mental
24 health technician, or child care aide or as an individual who
25 may have access to a resident, a resident's living quarters, or

1 a resident's personal, financial, or medical records unless the
2 facility has inquired of the Department's health care worker
3 registry ~~Department~~ as to information in the registry
4 concerning the individual. The facility ~~and~~ shall not employ an
5 individual as a nursing assistant, habilitation aide, or child
6 care aide who is ~~anyone~~ not on the registry unless the
7 individual is enrolled in a training program under paragraph
8 (5) of subsection (a) of Section 3-206 of this Act.

9 If the Department finds that a nursing assistant,
10 habilitation aide, home health aide, mental health technician,
11 ~~or~~ child care aide, or unlicensed individual who may have
12 access to a resident, a resident's living quarters, or a
13 resident's personal, financial, or personal records has abused
14 a resident, neglected a resident, or misappropriated resident
15 property ~~in a facility~~, the Department shall notify the
16 individual of this finding by certified mail sent to the
17 address contained in the registry. If an individual fails to
18 comply with the requirement to notify the Department of a
19 change in his or her address, service shall be deemed
20 effectuated by the Department when the address contained in the
21 registry is used. The notice shall give the individual an
22 opportunity to contest the finding in a hearing before the
23 Department or to submit a written response to the findings in
24 lieu of requesting a hearing. If, after a hearing or if the
25 individual does not request a hearing, the Department finds
26 that the individual abused a resident, neglected a resident, or

1 misappropriated resident property in a facility, the finding
2 shall be included as part of the registry as well as a clear
3 and accurate summary ~~brief statement~~ from the individual, if he
4 or she chooses to make such a statement. The Department shall
5 make the following information in the registry available to the
6 public: the individual's full name; the date the individual
7 successfully completed a nurse aide training or competency
8 evaluation; and whether an individual has had a finding of
9 abuse, neglect, or misappropriation of property. In the case of
10 inquiries to the registry concerning an individual listed in
11 the registry, any information disclosed concerning such a
12 finding shall also include disclosure of the individual's ~~any~~
13 statement in the registry relating to the finding or a clear
14 and accurate summary of the statement.

15 (b) The Department shall add to the health care worker
16 registry records of findings as reported by the Inspector
17 General or remove from the health care worker registry records
18 of findings as reported by the Department of Human Services,
19 under subsection (g-5) of Section 1-17 of the Department of
20 Human Services Act.

21 (Source: P.A. 95-545, eff. 8-28-07.)

22 (210 ILCS 45/3-206.02) (from Ch. 111 1/2, par.
23 4153-206.02)

24 Sec. 3-206.02. (a) The Department, after notice to the
25 nursing assistant, habilitation aide, home health aide, mental

1 health technician, ~~or~~ child care aide, or unlicensed individual
2 who may have access to a resident, a resident's living
3 quarters, or a resident's personal, financial, or personal
4 records, may denote that the Department has found any of the
5 following:

6 (1) The nursing assistant, habilitation aide, home
7 health aide, mental health technician, ~~or~~ child care aide,
8 or unlicensed individual who may have access to a resident,
9 a resident's living quarters, or a resident's personal,
10 financial, or personal records has abused a resident.

11 (2) The nursing assistant, habilitation aide, home
12 health aide, mental health technician, ~~or~~ child care aide,
13 or unlicensed individual who may have access to a resident,
14 a resident's living quarters, or a resident's personal,
15 financial, or personal records has neglected a resident.

16 (3) The nursing assistant, habilitation aide, home
17 health aide, mental health technician, ~~or~~ child care aide,
18 or unlicensed individual who may have access to a resident,
19 a resident's living quarters, or a resident's personal,
20 financial, or personal records has misappropriated
21 resident property.

22 (4) The nursing assistant, habilitation aide, home
23 health aide, mental health technician, ~~or~~ child care aide,
24 or unlicensed individual who may have access to a resident,
25 a resident's living quarters, or a resident's personal,
26 financial, or personal records has been convicted of (i) a

1 felony, (ii) a misdemeanor, an essential element of which
2 is dishonesty, or (iii) any crime that is directly related
3 to the duties of a nursing assistant, habilitation aide, or
4 child care aide.

5 (b) Notice under this Section shall include a clear and
6 concise statement of the grounds denoting abuse, neglect, or
7 theft and notice of the opportunity for a hearing to contest
8 the designation.

9 (c) The Department may denote any nursing assistant,
10 habilitation aide, home health aide, mental health technician,
11 ~~or~~ child care aide, or unlicensed individual who may have
12 access to a resident, a resident's living quarters, or a
13 resident's personal, financial, or personal records on the
14 registry who fails (i) to file a return, (ii) to pay the tax,
15 penalty or interest shown in a filed return, or (iii) to pay
16 any final assessment of tax, penalty or interest, as required
17 by any tax Act administered by the Illinois Department of
18 Revenue, until the time the requirements of the tax Act are
19 satisfied.

20 (c-1) The Department shall document criminal background
21 check results pursuant to the requirements of the Health Care
22 Worker Background Check Act.

23 (d) At any time after the designation on the registry
24 pursuant to subsection (a), (b), or (c) of this Section, a
25 nursing assistant, habilitation aide, home health aide, mental
26 health technician, ~~or~~ child care aide, or unlicensed individual

1 who may have access to a resident, a resident's living
2 quarters, or a resident's personal, financial, or personal
3 records may petition the Department for removal of designation
4 of neglect on the registry. The Department may remove the
5 designation of neglect of the nursing assistant, habilitation
6 aide, home health aide, mental health technician, or child care
7 aide, or unlicensed individual who may have access to a
8 resident, a resident's living quarters, or a resident's
9 personal, financial, or personal records on the registry
10 unless, after an investigation and a hearing, the Department
11 determines that removal of designation is not in the public
12 interest.

13 (Source: P.A. 91-598, eff. 1-1-00.)

14 (210 ILCS 45/3-212) (from Ch. 111 1/2, par. 4153-212)

15 Sec. 3-212. Inspection.

16 (a) The Department, whenever it deems necessary in
17 accordance with subsection (b), shall inspect, survey and
18 evaluate every facility to determine compliance with
19 applicable licensure requirements and standards. Submission of
20 a facility's current Consumer Choice Information Report
21 required by Section 2-214 shall be verified at time of
22 inspection. An inspection should occur within 120 days prior to
23 license renewal. The Department may periodically visit a
24 facility for the purpose of consultation. An inspection,
25 survey, or evaluation, other than an inspection of financial

1 records, shall be conducted without prior notice to the
2 facility. A visit for the sole purpose of consultation may be
3 announced. The Department shall provide training to surveyors
4 about the appropriate assessment, care planning, and care of
5 persons with mental illness (other than Alzheimer's disease or
6 related disorders) to enable its surveyors to determine whether
7 a facility is complying with State and federal requirements
8 about the assessment, care planning, and care of those persons.

9 (a-1) An employee of a State or unit of local government
10 agency charged with inspecting, surveying, and evaluating
11 facilities who directly or indirectly gives prior notice of an
12 inspection, survey, or evaluation, other than an inspection of
13 financial records, to a facility or to an employee of a
14 facility is guilty of a Class A misdemeanor.

15 An inspector or an employee of the Department who
16 intentionally prenotifies a facility, orally or in writing, of
17 a pending complaint investigation or inspection shall be guilty
18 of a Class A misdemeanor. Superiors of persons who have
19 prenotified a facility shall be subject to the same penalties,
20 if they have knowingly allowed the prenotification. A person
21 found guilty of prenotifying a facility shall be subject to
22 disciplinary action by his or her employer.

23 If the Department has a good faith belief, based upon
24 information that comes to its attention, that a violation of
25 this subsection has occurred, it must file a complaint with the
26 Attorney General or the State's Attorney in the county where

1 the violation took place within 30 days after discovery of the
2 information.

3 (a-2) An employee of a State or unit of local government
4 agency charged with inspecting, surveying, or evaluating
5 facilities who willfully profits from violating the
6 confidentiality of the inspection, survey, or evaluation
7 process shall be guilty of a Class 4 felony and that conduct
8 shall be deemed unprofessional conduct that may subject a
9 person to loss of his or her professional license. An action to
10 prosecute a person for violating this subsection (a-2) may be
11 brought by either the Attorney General or the State's Attorney
12 in the county where the violation took place.

13 (b) In determining whether to make more than the required
14 number of unannounced inspections, surveys and evaluations of a
15 facility the Department shall consider one or more of the
16 following: previous inspection reports; the facility's history
17 of compliance with standards, rules and regulations
18 promulgated under this Act and correction of violations,
19 penalties or other enforcement actions; the number and severity
20 of complaints received about the facility; any allegations of
21 resident abuse or neglect; weather conditions; health
22 emergencies; other reasonable belief that deficiencies exist.

23 (b-1) The Department shall not be required to determine
24 whether a facility certified to participate in the Medicare
25 program under Title XVIII of the Social Security Act, or the
26 Medicaid program under Title XIX of the Social Security Act,

1 and which the Department determines by inspection under this
2 Section or under Section 3-702 of this Act to be in compliance
3 with the certification requirements of Title XVIII or XIX, is
4 in compliance with any requirement of this Act that is less
5 stringent than or duplicates a federal certification
6 requirement. In accordance with subsection (a) of this Section
7 or subsection (d) of Section 3-702, the Department shall
8 determine whether a certified facility is in compliance with
9 requirements of this Act that exceed federal certification
10 requirements. If a certified facility is found to be out of
11 compliance with federal certification requirements, the
12 results of an inspection conducted pursuant to Title XVIII or
13 XIX of the Social Security Act may be used as the basis for
14 enforcement remedies authorized and commenced under this Act.
15 Enforcement of this Act against a certified facility shall be
16 commenced pursuant to the requirements of this Act, unless
17 enforcement remedies sought pursuant to Title XVIII or XIX of
18 the Social Security Act exceed those authorized by this Act. As
19 used in this subsection, "enforcement remedy" means a sanction
20 for violating a federal certification requirement or this Act.

21 (c) Upon completion of each inspection, survey and
22 evaluation, the appropriate Department personnel who conducted
23 the inspection, survey or evaluation shall submit a copy of
24 their report to the licensee upon exiting the facility, and
25 shall submit the actual report to the appropriate regional
26 office of the Department. Such report and any recommendations

1 for action by the Department under this Act shall be
2 transmitted to the appropriate offices of the associate
3 director of the Department, together with related comments or
4 documentation provided by the licensee which may refute
5 findings in the report, which explain extenuating
6 circumstances that the facility could not reasonably have
7 prevented, or which indicate methods and timetables for
8 correction of deficiencies described in the report. Without
9 affecting the application of subsection (a) of Section 3-303,
10 any documentation or comments of the licensee shall be provided
11 within 10 days of receipt of the copy of the report. Such
12 report shall recommend to the Director appropriate action under
13 this Act with respect to findings against a facility. The
14 Director shall then determine whether the report's findings
15 constitute a violation or violations of which the facility must
16 be given notice. Such determination shall be based upon the
17 severity of the finding, the danger posed to resident health
18 and safety, the comments and documentation provided by the
19 facility, the diligence and efforts to correct deficiencies,
20 correction of the reported deficiencies, the frequency and
21 duration of similar findings in previous reports and the
22 facility's general inspection history. Violations shall be
23 determined under this subsection within ~~no later than~~ 60 days
24 after completion of each inspection, survey and evaluation.
25 Failure by the Department to determine violations within 60
26 days after completion of each inspection, survey, and

1 evaluation does not divest the Department of jurisdiction to
2 enforce this Act or otherwise limit or restrict the
3 Department's authority to enforce this Act.

4 (d) The Department shall maintain all inspection, survey
5 and evaluation reports for at least 5 years in a manner
6 accessible to and understandable by the public.

7 (Source: P.A. 95-823, eff. 1-1-09.)

8 (210 ILCS 45/3-301) (from Ch. 111 1/2, par. 4153-301)

9 Sec. 3-301. If after receiving the report specified in
10 subsection (c) of Section 3-212 the Director or his designee
11 determines that a facility is in violation of this Act or of
12 any rule promulgated thereunder, he shall serve a notice of
13 violation upon the licensee within 10 days thereafter. Each
14 notice of violation shall be prepared in writing and shall
15 specify the nature of the violation, and the statutory
16 provision or rule alleged to have been violated. The notice
17 shall inform the licensee of any action the Department may take
18 under the Act, including the requirement of a facility plan of
19 correction under Section 3-303; placement of the facility on a
20 list prepared under Section 3-304; assessment of a penalty
21 under Section 3-305; a conditional license under Sections 3-311
22 through 3-317; or license suspension or revocation under
23 Section 3-119. The Director or his designee shall also inform
24 the licensee of rights to a hearing under Section 3-703.
25 Failure by the Department to serve a notice of violation within

1 10 days after determining a violation occurred does not divest
2 the Department of jurisdiction to enforce this Act or otherwise
3 limit or restrict the Department's authority to enforce this
4 Act.

5 (Source: P.A. 85-1378.)

6 (210 ILCS 45/3-303) (from Ch. 111 1/2, par. 4153-303)

7 Sec. 3-303. (a) The situation, condition or practice
8 constituting a Type "AA" violation or a Type "A" violation
9 shall be abated or eliminated immediately unless a fixed period
10 of time, not exceeding 15 days, as determined by the Department
11 and specified in the notice of violation, is required for
12 correction.

13 (b) At the time of issuance of a notice of a Type "B"
14 violation, the Department shall request a plan of correction
15 which is subject to the Department's approval. The facility
16 shall have 10 days after receipt of notice of violation in
17 which to prepare and submit a plan of correction. The
18 Department may extend this period up to 30 days where
19 correction involves substantial capital improvement. The plan
20 shall include a fixed time period not in excess of 90 days
21 within which violations are to be corrected. If the Department
22 rejects a plan of correction, it shall send notice of the
23 rejection and the reason for the rejection to the facility. The
24 facility shall have 10 days after receipt of the notice of
25 rejection in which to submit a modified plan. If the modified

1 plan is not timely submitted, or if the modified plan is
2 rejected, the facility shall follow an approved plan of
3 correction imposed by the Department.

4 (c) If the violation has been corrected prior to submission
5 and approval of a plan of correction, the facility may submit a
6 report of correction in place of a plan of correction. Such
7 report shall be signed by the administrator under oath.

8 (d) Upon a licensee's petition, the Department shall
9 determine whether to grant a licensee's request for an extended
10 correction time. Such petition shall be served on the
11 Department prior to expiration of the correction time
12 originally approved. The burden of proof is on the petitioning
13 facility to show good cause for not being able to comply with
14 the original correction time approved.

15 (e) If a facility desires to contest any Department action
16 under this Section it shall send a written request for a
17 hearing under Section 3-703 to the Department within 10 days of
18 receipt of notice of the contested action. The Department shall
19 commence the hearing as provided under Section 3-703. Whenever
20 possible, all action of the Department under this Section
21 arising out of a violation shall be contested and determined at
22 a single hearing. Issues decided after a hearing may not be
23 reheard at subsequent hearings under this Section.

24 (Source: P.A. 85-1378.)

25 (210 ILCS 45/3-303.2) (from Ch. 111 1/2, par. 4153-303.2)

1 Sec. 3-303.2. (a) If the Department finds a situation,
2 condition or practice which violates this Act or any rule
3 promulgated thereunder which does not constitute a Type "AA",
4 Type "A", Type "B", or Type "C" violation ~~directly threaten the~~
5 ~~health, safety or welfare of a resident,~~ the Department shall
6 issue an administrative warning. Any administrative warning
7 shall be served upon the facility in the same manner as the
8 notice of violation under Section 3-301. The facility shall be
9 responsible for correcting the situation, condition or
10 practice; however, no written plan of correction need be
11 submitted for an administrative warning, except for violations
12 of Sections 3-401 through 3-413 or the rules promulgated
13 thereunder. A written plan of correction is required to be
14 filed for an administrative warning issued for violations of
15 Sections 3-401 through 3-413 or the rules promulgated
16 thereunder.

17 (b) If, however, the situation, condition or practice which
18 resulted in the issuance of an administrative warning, with the
19 exception of administrative warnings issued pursuant to
20 Sections 3-401 through 3-413 or the rules promulgated
21 thereunder, is not corrected by the next on-site inspection by
22 the Department which occurs no earlier than 90 days from the
23 issuance of the administrative warning, a written plan of
24 correction must be submitted in the same manner as provided in
25 subsection (b) of Section 3-303.

26 (Source: P.A. 87-549.)

1 (210 ILCS 45/3-305) (from Ch. 111 1/2, par. 4153-305)

2 Sec. 3-305. The license of a facility which is in violation
3 of this Act or any rule adopted thereunder may be subject to
4 the penalties or fines levied by the Department as specified in
5 this Section.

6 (1) ~~A Unless a greater penalty or fine is allowed under~~
7 ~~subsection (3), a licensee who commits a Type "AA" "A"~~
8 violation as defined in Section 1-129 is automatically issued a
9 conditional license for a period of 6 months to coincide with
10 an acceptable plan of correction and assessed a fine ~~computed~~
11 ~~at a rate of \$5.00 per resident in the facility plus 20 cents~~
12 ~~per resident for each day of the violation, commencing on the~~
13 ~~date a notice of the violation is served under Section 3-301~~
14 ~~and ending on the date the violation is corrected, or a fine of~~
15 not less than \$50,000 and not more than \$100,000 per violation
16 ~~\$5,000, or when death, serious mental or physical harm,~~
17 ~~permanent disability, or disfigurement results, a fine of not~~
18 ~~less than \$10,000, whichever is greater.~~

19 (2) A licensee who commits a Type "A" violation as defined
20 in Section 1-130 is automatically issued a conditional license
21 for a period of 6 months to coincide with an acceptable plan of
22 correction and assessed a fine of not less than \$25,000 and not
23 more than \$50,000 per violation.

24 (3) (2) A licensee who commits a Type "B" violation as
25 defined in Section 1-131 shall be assessed a fine of \$10,000

1 ~~per violation or who is issued an administrative warning for a~~
2 ~~violation of Sections 3-401 through 3-413 or the rules~~
3 ~~promulgated thereunder is subject to a penalty computed at a~~
4 ~~rate of \$3 per resident in the facility, plus 15 cents per~~
5 ~~resident for each day of the violation, commencing on the date~~
6 ~~a notice of the violation is served under Section 3-301 and~~
7 ~~ending on the date the violation is corrected, or a fine not~~
8 ~~less than \$500, whichever is greater. Such fine shall be~~
9 ~~assessed on the date of notice of the violation and shall be~~
10 ~~suspended for violations that continue after such date upon~~
11 ~~completion of a plan of correction in accordance with Section~~
12 ~~3-308 in relation to the assessment of fines and correction.~~
13 ~~Failure to correct such violation within the time period~~
14 ~~approved under a plan of correction shall result in a fine and~~
15 ~~conditional license as provided under subsection (5).~~

16 (4) A licensee who commits a Type "C" violation as defined
17 in Section 1-132 shall be assessed a fine of \$2,000 per
18 violation.

19 (5) (3) A licensee who commits a Type "AA" or Type "A"
20 violation as defined in Section 1-129 and Section 1-130 which
21 continues beyond the time specified in paragraph (a) of Section
22 3-303 which is cited as a repeat violation within a one-year
23 period shall have its license revoked and shall be assessed a
24 fine of up to 3 times the maximum fine computed per resident
25 per day under subsection (1) or subsection (2). A licensee who
26 commits a Type "AA" violation as defined in Section 1-129 that

1 is cited as a repeat violation within a 2-year period shall be
2 assessed a fine of up to 2 times the maximum fine computed
3 under subsection (1). A licensee who commits a Type "A"
4 violation as defined in Section 1-130 that is cited as a repeat
5 violation within a 2-year period shall be assessed a fine of up
6 to 2 times the maximum fine computed under subsection (2). The
7 Department shall consider the factors delineated in Section
8 3-306 in determining the exact amount of the fine.

9 (6) ~~(4)~~ A licensee who fails to satisfactorily comply with
10 an accepted plan of correction for a Type "B" or Type "C"
11 violation or an administrative warning issued pursuant to
12 Sections 3-401 through 3-413 or the rules promulgated
13 thereunder shall be automatically issued a conditional license
14 for a period of not less than 6 months. A second or subsequent
15 acceptable plan of correction shall be filed. A fine of 3 times
16 the fine computed under subsection (3) or subsection (4) shall
17 be assessed ~~in accordance with subsection (2)~~ when a licensee
18 is cited for the repeat violation. ~~This fine shall be computed~~
19 ~~for all days of the violation, including the duration of the~~
20 ~~first plan of correction compliance time.~~

21 ~~(5) For the purpose of computing a penalty under~~
22 ~~subsections (2) through (4), the number of residents per day~~
23 ~~shall be based on the average number of residents in the~~
24 ~~facility during the 30 days preceding the discovery of the~~
25 ~~violation.~~

26 (7) ~~(6)~~ When the Department finds that a provision of

1 Article II has been violated with regard to a particular
2 resident, the Department shall issue an order requiring the
3 facility to reimburse the resident for injuries incurred, or
4 \$50,000 ~~\$100~~, whichever is greater. In the case of a violation
5 involving any action other than theft of money belonging to a
6 resident, reimbursement shall be ordered only if a provision of
7 Article II has been violated with regard to that or any other
8 resident of the facility within the 2 years immediately
9 preceding the violation in question.

10 (8) ~~(7)~~ For purposes of assessing fines under this Section,
11 a repeat violation shall be a violation which has been cited
12 during one inspection of the facility for which an accepted
13 plan of correction was not complied with or. ~~A repeat violation~~
14 ~~shall not be~~ a new citation of the same rule if, ~~unless~~ the
15 licensee is not substantially addressing the issue routinely
16 throughout the facility.

17 (9) The minimum and maximum fines that may be imposed
18 pursuant to this Section shall be twice those otherwise
19 specified for any facility that makes a misstatement of fact to
20 the Department or fails to make a required notification to the
21 Department, which misstatement or failure delays the start of a
22 survey or impedes a survey.

23 (Source: P.A. 86-407; 87-549; 87-1056.)

24 (210 ILCS 45/3-306) (from Ch. 111 1/2, par. 4153-306)

25 Sec. 3-306. In determining whether a penalty is to be

1 imposed and in determining ~~fixing~~ the amount of the penalty to
2 be imposed, if any, for a violation, the Director shall
3 consider the following factors, but shall not be required to
4 assign a specific value to each one:

5 (1) The gravity of the violation, including the probability
6 that death or serious physical or mental harm to a resident
7 will result or has resulted; the severity of the actual or
8 potential harm, and the extent to which the provisions of the
9 applicable statutes or regulations were violated. ~~†~~

10 (2) The reasonable diligence exercised by the licensee and
11 efforts to correct violations.

12 (3) Any previous violations committed by the licensee. ~~† and~~

13 (4) The financial benefit to the facility of committing or
14 continuing the violation.

15 (5) The number of residents affected by the violation.

16 (Source: P.A. 81-223.)

17 (210 ILCS 45/3-309) (from Ch. 111 1/2, par. 4153-309)

18 Sec. 3-309. A facility may contest an assessment of a
19 penalty by sending a written request to the Department for
20 hearing under Section 3-703. Upon receipt of the request the
21 Department shall hold a hearing as provided under Section
22 3-703. A facility may, in lieu of requesting a hearing pursuant
23 to Section 3-703, waive its right to a hearing by transmitting
24 to the Department 65% of the amount specified for each
25 violation specified in the penalty assessment within 10

1 business days after receipt of the notice of violation and fine
2 assessment.

3 (Source: P.A. 81-223.)

4 (210 ILCS 45/3-310) (from Ch. 111 1/2, par. 4153-310)

5 Sec. 3-310. All penalties shall be paid to the Department
6 within 10 days of receipt of notice of assessment or, if the
7 penalty is contested under Section 3-309, within 10 days of
8 receipt of the final decision, unless the decision is appealed
9 and the order is stayed by court order under Section 3-713. A
10 facility choosing to waive the right to a hearing under Section
11 3-309 shall submit a payment totaling 65% of the original fine
12 amount along with the written waiver. A penalty assessed under
13 this Act shall be collected by the Department and shall be
14 deposited with the State Treasurer into the Long Term Care
15 Monitor/Receiver Fund. If the person or facility against whom a
16 penalty has been assessed does not comply with a written demand
17 for payment within 30 days, the Director shall issue an order
18 to do any of the following:

19 (1) Direct the State Treasurer or Comptroller to deduct
20 the amount of the fine from amounts otherwise due from the
21 State for the penalty, including any payments to be made
22 from the Medicaid Long Term Care Provider Participation Fee
23 Trust Fund established under Section 5-4.31 of the Illinois
24 Public Aid Code, and remit that amount to the Department;

25 (2) Add the amount of the penalty to the facility's

1 licensing fee; if the licensee refuses to make the payment
2 at the time of application for renewal of its license, the
3 license shall not be renewed; or

4 (3) Bring an action in circuit court to recover the
5 amount of the penalty.

6 With the approval of the federal centers for Medicaid and
7 Medicare services, the Director of Public Health shall set
8 aside 50% of the federal civil monetary penalties collected
9 each year to be used to award grants under the Innovations in
10 Long-term Care Quality Grants Act.

11 (Source: P.A. 92-784, eff. 8-6-02.)

12 (210 ILCS 45/3-318) (from Ch. 111 1/2, par. 4153-318)

13 Sec. 3-318. (a) No person shall:

14 (1) Intentionally fail to correct or interfere with the
15 correction of a Type "AA", Type "A", or Type "B", or Type "C"
16 violation within the time specified on the notice or approved
17 plan of correction under this Act as the maximum period given
18 for correction, unless an extension is granted and the
19 corrections are made before expiration of extension;

20 (2) Intentionally prevent, interfere with, or attempt to
21 impede in any way any duly authorized investigation and
22 enforcement of this Act;

23 (3) Intentionally prevent or attempt to prevent any
24 examination of any relevant books or records pertinent to
25 investigations and enforcement of this Act;

1 (4) Intentionally prevent or interfere with the
2 preservation of evidence pertaining to any violation of this
3 Act or the rules promulgated under this Act;

4 (5) Intentionally retaliate or discriminate against any
5 resident or employee for contacting or providing information to
6 any state official, or for initiating, participating in, or
7 testifying in an action for any remedy authorized under this
8 Act;

9 (6) Wilfully file any false, incomplete or intentionally
10 misleading information required to be filed under this Act, or
11 wilfully fail or refuse to file any required information; or

12 (7) Open or operate a facility without a license.

13 (b) Any person found in violation of this Section is guilty
14 of a Class A misdemeanor. Any person found in violation of this
15 Section after having been convicted of a separate offense under
16 this Section is guilty of a Class 4 felony. A violation of this
17 Section is a business offense, punishable by a fine not to
18 exceed \$10,000, except as otherwise provided in subsection (2)
19 of Section 3-103 as to submission of false or misleading
20 information in a license application.

21 (c) The State's Attorney of the county in which the
22 facility is located, or the Attorney General, shall be notified
23 by the Director of any violations of this Section.

24 (d) Individuals employed by a facility licensed by the
25 Department shall be required to indicate in writing whether
26 they agree or disagree with the interview statement as written

1 by the surveyor and sign the interview statement. Failure to
2 comply with this provision shall result in a rebuttable
3 presumption that the interview statement was accurately
4 recorded by the surveyor.

5 (Source: P.A. 83-1530.)

6 (210 ILCS 45/3-402) (from Ch. 111 1/2, par. 4153-402)

7 Sec. 3-402. Involuntary transfer or discharge of a resident
8 from a facility shall be preceded by the discussion required
9 under Section 3-408 and by a minimum written notice of 21 days,
10 except in one of the following instances:

11 (a) When ~~when~~ an emergency transfer or discharge is ordered
12 by the resident's attending physician because of the resident's
13 health care needs. ~~;~~ ~~or~~

14 (b) When ~~when~~ the transfer or discharge is mandated by the
15 physical safety of other residents, the facility staff, or
16 facility visitors, as documented in the clinical record. The
17 Department shall be notified prior to any such involuntary
18 transfer or discharge. The Department shall immediately offer
19 transfer, or discharge and relocation assistance to residents
20 transferred or discharged under this subparagraph (b), and the
21 Department may place relocation teams as provided in Section
22 3-419 of this Act.

23 (c) When an identified offender is within the provisional
24 admission period defined in Section 1-120.1. The criminal
25 history analysis report must show that the identified offender

1 poses a serious threat or danger to the physical safety of
2 other residents in the admitting facility. The facility shall
3 transfer or discharge the identified offender within 24 hours
4 after reviewing the criminal history analysis report.

5 (Source: P.A. 84-1322.)

6 (210 ILCS 45/3-404.1 new)

7 Sec. 3-404.1. Identified offender; no appeal. An
8 identified offender within the provisional admission period
9 may not appeal an involuntary transfer or discharge based on
10 the threat that offender poses to the physical safety of other
11 residents.

12 (210 ILCS 45/3-409) (from Ch. 111 1/2, par. 4153-409)

13 Sec. 3-409. The facility shall offer the resident
14 counseling services before the transfer or discharge of the
15 resident, except in the case of an identified offender if the
16 transfer or discharge is made pursuant to subsection (c) of
17 Section 3-402.

18 (Source: P.A. 81-223.)

19 (210 ILCS 45/3-410) (from Ch. 111 1/2, par. 4153-410)

20 Sec. 3-410. A resident subject to involuntary transfer or
21 discharge from a facility, the resident's guardian or if the
22 resident is a minor, his parent shall have the opportunity to
23 file a request for a hearing with the Department within 10 days

1 following receipt of the written notice of the involuntary
2 transfer or discharge by the facility. The parent or guardian
3 shall not be afforded a hearing if the minor has been
4 transferred or discharged pursuant to subsection (c) of Section
5 3-402.

6 (Source: P.A. 81-223.)

7 (210 ILCS 45/3-415) (from Ch. 111 1/2, par. 4153-415)

8 Sec. 3-415. The Department may transfer or discharge any
9 resident from any facility required to be licensed under this
10 Act when any of the following conditions exist:

11 (a) Such facility is operating without a license;

12 (b) The Department has suspended, revoked or refused to
13 renew the license of the facility as provided under Section
14 3-119;

15 (c) The facility has requested the aid of the Department in
16 the transfer or discharge of the resident and the Department
17 finds that the resident consents to transfer or discharge;

18 (d) The facility is closing or intends to close and
19 adequate arrangement for relocation of the resident has not
20 been made at least 30 days prior to closure; or

21 (e) The Department determines that an emergency exists
22 which requires immediate transfer or discharge of the resident.
23 An emergency shall include, but is not limited to, where an
24 identified offender has been given provisional admission and
25 must be transferred or discharged pursuant to subsection (c) of

1 Section 3-402.

2 (Source: P.A. 81-223.)

3 (210 ILCS 45/3-417) (from Ch. 111 1/2, par. 4153-417)

4 Sec. 3-417. Transfer or discharge; alternative placements.
5 The Department shall offer transfer or discharge and relocation
6 assistance to residents transferred or discharged under
7 Sections 3-401 through 3-415, including information on
8 available alternative placements. Residents shall be involved
9 in planning the transfer or discharge and shall choose among
10 the available alternative placements, except that where an
11 emergency makes prior resident involvement impossible the
12 Department may make a temporary placement until a final
13 placement can be arranged. Residents may choose their final
14 alternative placement and shall be given assistance in
15 transferring to such place. No resident may be forced to remain
16 in a temporary or permanent placement. Where the Department
17 makes or participates in making the relocation decision,
18 consideration shall be given to proximity to the resident's
19 relatives and friends. The resident shall be allowed 3 visits
20 to potential alternative placements prior to removal, except
21 where medically contraindicated or where the need for immediate
22 transfer or discharge requires reduction in the number of
23 visits, and except if a resident is an identified offender and
24 is transferred or discharged pursuant to subsection (c) of
25 Section 3-402.

1 When the Department provides information on available
2 alternative placements in community-based settings for
3 individuals being discharged or transferred from facilities
4 licensed under this Act, the information must include a
5 comprehensive list of a range of appropriate, client-oriented
6 services and the name of and contact information for the ADA
7 coordinator in the relocation locale. The comprehensive list
8 must include the name and contact information for each agency
9 or organization providing those services and a summary of the
10 services provided by each agency or organization. A hotline or
11 similar crisis telephone number must also be provided to
12 individuals relocating into the community.

13 (Source: P.A. 96-477, eff. 8-14-09.)

14 (210 ILCS 45/3-420) (from Ch. 111 1/2, par. 4153-420)

15 Sec. 3-420. In any transfer or discharge conducted under
16 Sections 3-415 through 3-418 the Department shall:

17 (a) Provide written notice to the facility prior to the
18 transfer or discharge. The notice shall state the basis for the
19 order of transfer or discharge and shall inform the facility of
20 its right to an informal conference prior to transfer or
21 discharge under this Section, and its right to a subsequent
22 hearing under Section 3-422, except if a resident is an
23 identified offender and is transferred or discharged pursuant
24 to subsection (c) of Section 3-402. If a facility desires to
25 contest a nonemergency transfer or discharge, prior to transfer

1 or discharge it shall, within 4 working days after receipt of
2 the notice, send a written request for an informal conference
3 to the Department. The Department shall, within 4 working days
4 from the receipt of the request, hold an informal conference in
5 the county in which the facility is located. Following this
6 conference, the Department may affirm, modify or overrule its
7 previous decision. Except in an emergency, transfer or
8 discharge may not begin until the period for requesting a
9 conference has passed or, if a conference is requested, until
10 after a conference has been held; and

11 (b) Provide written notice to any resident to be removed,
12 to the resident's representative, if any, and to a member of
13 the resident's family, where practicable, prior to the removal.
14 The notice shall state the reason for which transfer or
15 discharge is ordered and shall inform the resident of the
16 resident's right to challenge the transfer or discharge under
17 Section 3-422. The Department shall hold an informal conference
18 with the resident or the resident's representative prior to
19 transfer or discharge at which the resident or the
20 representative may present any objections to the proposed
21 transfer or discharge plan or alternative placement, except if
22 a resident is an identified offender and is transferred or
23 discharged pursuant to subsection (c) of Section 3-402.

24 (Source: P.A. 81-223.)

25 (210 ILCS 45/3-421) (from Ch. 111 1/2, par. 4153-421)

1 Sec. 3-421. In any transfer or discharge conducted under
2 subsection (e) of Section 3-415, the Department shall notify
3 the facility and any resident to be removed that an emergency
4 has been found to exist and removal has been ordered, and shall
5 involve the residents in removal planning if possible. With the
6 consent of the resident or his or her representative, the
7 facility must inform the resident's designated case
8 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of
9 the resident's pending discharge and must provide the resident
10 or his or her representative with the case coordination unit's
11 telephone number and other contact information. Following
12 emergency removal, the Department shall provide written notice
13 to the facility, to the resident, to the resident's
14 representative, if any, and to a member of the resident's
15 family, where practicable, of the basis for the finding that an
16 emergency existed and of the right to challenge removal under
17 Section 3-422, except if a resident is an identified offender
18 and is transferred or discharged pursuant to subsection (c) of
19 Section 3-402.

20 (Source: P.A. 94-767, eff. 5-12-06.)

21 (210 ILCS 45/3-422) (from Ch. 111 1/2, par. 4153-422)

22 Sec. 3-422. Within 10 days following transfer or discharge,
23 the facility or any resident transferred or discharged may send
24 a written request to the Department for a hearing under Section
25 3-703 to challenge the transfer or discharge, except if a

1 resident is an identified offender and is transferred or
2 discharged pursuant to subsection (c) of Section 3-402. The
3 Department shall hold the hearing within 30 days of receipt of
4 the request. The hearing shall be held at the facility from
5 which the resident is being transferred or discharged, unless
6 the resident or resident's representative, requests an
7 alternative hearing site. If the facility prevails, it may file
8 a claim against the State under the "Court of Claims Act" for
9 payments lost less expenses saved as a result of the transfer
10 or discharge. No resident transferred or discharged may be held
11 liable for the charge for care which would have been made had
12 the resident remained in the facility. If a resident prevails,
13 the resident may file a claim against the State under the
14 "Court of Claims Act" for any excess expenses directly caused
15 by the order to transfer or discharge. The Department shall
16 assist the resident in returning to the facility if assistance
17 is requested.

18 (Source: P.A. 85-1378.)

19 (210 ILCS 45/3-701) (from Ch. 111 1/2, par. 4153-701)

20 Sec. 3-701. The operation or maintenance of a facility in
21 violation of this Act, or of the rules and regulations
22 promulgated by the Department or of federal regulations as
23 determined by federal surveyors, is declared a public nuisance
24 inimical to the public welfare. The Director in the name of the
25 people of the State, through the Attorney General, or the

1 State's Attorney of the county in which the facility is
2 located, or in respect to any city, village or incorporated
3 town which provides for the licensing and regulation of any or
4 all such facilities, the Director or the mayor or president of
5 the Board of Trustees, as the case may require, of the city,
6 village or incorporated town, in the name of the people of the
7 State, through the Attorney General or State's attorney of the
8 county in which the facility is located, may, in addition to
9 other remedies herein provided, bring action for an injunction
10 to restrain such violation or to enjoin the future operation or
11 maintenance of any such facility.

12 (Source: P.A. 81-223.)

13 (210 ILCS 45/3-702) (from Ch. 111 1/2, par. 4153-702)

14 Sec. 3-702. (a) A person who believes that this Act or a
15 rule promulgated under this Act may have been violated may
16 request an investigation. The request may be submitted to the
17 Department in writing, by telephone, or by personal visit. An
18 oral complaint shall be reduced to writing by the Department.
19 The Department shall request information identifying the
20 complainant, including the name, address and telephone number,
21 to help enable appropriate follow-up. The Department shall act
22 on such complaints via on-site visits or other methods deemed
23 appropriate to handle the complaints with or without such
24 identifying information, as otherwise provided under this
25 Section. The complainant shall be informed that compliance with

1 such request is not required to satisfy the procedures for
2 filing a complaint under this Act.

3 (b) The substance of the complaint shall be provided in
4 writing to the licensee, owner or administrator no earlier than
5 at the commencement of an on-site inspection of the facility
6 which takes place pursuant to the complaint.

7 (c) The Department shall not disclose the name of the
8 complainant unless the complainant consents in writing to the
9 disclosure or the investigation results in a judicial
10 proceeding, or unless disclosure is essential to the
11 investigation. The complainant shall be given the opportunity
12 to withdraw the complaint before disclosure. Upon the request
13 of the complainant, the Department may permit the complainant
14 or a representative of the complainant to accompany the person
15 making the on-site inspection of the facility.

16 (d) Upon receipt of a complaint, the Department shall
17 determine whether this Act or a rule promulgated under this Act
18 has been or is being violated. The Department shall investigate
19 all complaints alleging abuse or neglect within 7 days after
20 the receipt of the complaint except that complaints of abuse or
21 neglect which indicate that a resident's life or safety is in
22 imminent danger shall be investigated within 24 hours after
23 receipt of the complaint. All other complaints shall be
24 investigated within 30 days after the receipt of the complaint.
25 The Department employees investigating a complaint shall
26 conduct a brief, informal exit conference with the facility to

1 alert its administration of any suspected serious deficiency
2 that poses a direct threat to the health, safety or welfare of
3 a resident to enable an immediate correction for the
4 alleviation or elimination of such threat. Such information and
5 findings discussed in the brief exit conference shall become a
6 part of the investigating record but shall not in any way
7 constitute an official or final notice of violation as provided
8 under Section 3-301. All complaints shall be classified as "an
9 invalid report", "a valid report", or "an undetermined report".
10 For any complaint classified as "a valid report", the
11 Department must determine within 30 working days if any rule or
12 provision of this Act has been or is being violated. Failure by
13 the Department to determine violations within 30 working days
14 does not divest the Department of jurisdiction to enforce this
15 Act or otherwise limit or restrict the Department's authority
16 to enforce this Act.

17 (d-1) The Department shall, whenever possible, combine an
18 on-site investigation of a complaint in a facility with other
19 inspections in order to avoid duplication of inspections.

20 (e) In all cases, the Department shall inform the
21 complainant of its findings within 10 days of its determination
22 unless otherwise indicated by the complainant, and the
23 complainant may direct the Department to send a copy of such
24 findings to another person. The Department's findings may
25 include comments or documentation provided by either the
26 complainant or the licensee pertaining to the complaint. The

1 Department shall also notify the facility of such findings
2 within 10 days of the determination, but the name of the
3 complainant or residents shall not be disclosed in this notice
4 to the facility. The notice of such findings shall include a
5 copy of the written determination; the correction order, if
6 any; the warning notice, if any; the inspection report; or the
7 State licensure form on which the violation is listed. Failure
8 by the Department to notify the complainant or the facility of
9 the finding within 10 days after the determination does not
10 divest the Department of jurisdiction to enforce this Act or
11 otherwise limit or restrict the Department's authority to
12 enforce this Act.

13 (f) A written determination, correction order, or warning
14 notice concerning a complaint, together with the facility's
15 response, shall be available for public inspection, but the
16 name of the complainant or resident shall not be disclosed
17 without his consent.

18 (g) A complainant who is dissatisfied with the
19 determination or investigation by the Department may request a
20 hearing under Section 3-703. The facility shall be given notice
21 of any such hearing and may participate in the hearing as a
22 party. If a facility requests a hearing under Section 3-703
23 which concerns a matter covered by a complaint, the complainant
24 shall be given notice and may participate in the hearing as a
25 party. A request for a hearing by either a complainant or a
26 facility shall be submitted in writing to the Department within

1 30 days after the mailing of the Department's findings as
2 described in subsection (e) of this Section. Upon receipt of
3 the request the Department shall conduct a hearing as provided
4 under Section 3-703.

5 (h) Any person who knowingly transmits a false report to
6 the Department commits the offense of disorderly conduct under
7 subsection (a)(8) of Section 26-1 of the "Criminal Code of
8 1961".

9 (Source: P.A. 85-1378.)

10 (210 ILCS 45/3-704) (from Ch. 111 1/2, par. 4153-704)

11 Sec. 3-704. A request for a hearing by aggrieved persons
12 shall be taken to the Department as follows:

13 (a) Upon the receipt of a request in writing for a hearing,
14 the Director or a person designated in writing by the Director
15 to act as a hearing officer shall conduct a hearing to review
16 the decision.

17 (b) Before the hearing is held notice of the hearing shall
18 be sent by the Department to the person making the request for
19 the hearing and to the person making the decision which is
20 being reviewed. In the notice the Department shall specify the
21 date, time and place of the hearing which shall be held not
22 less than 10 days after the notice is mailed or delivered. The
23 notice shall designate the decision being reviewed. The notice
24 may be served by delivering it personally to the parties or
25 their representatives or by mailing it by certified mail to the

1 parties' addresses.

2 (c) The Department shall commence the hearing within 30
3 days of the receipt of request for hearing. The hearing shall
4 proceed as expeditiously as practicable, but in all cases shall
5 conclude within 90 days of commencement.

6 (d) The time periods set forth in this Section are
7 directory and not mandatory, and the Department's failure to
8 act within the stated time periods does not divest the
9 Department of jurisdiction to enforce this Act or otherwise
10 limit or restrict the Department's authority to enforce this
11 Act.

12 (Source: P.A. 85-1183.)

13 (210 ILCS 45/3-707) (from Ch. 111 1/2, par. 4153-707)

14 Sec. 3-707. The Director or hearing officer shall make
15 findings of fact in such hearing, and the Director shall render
16 his decision within 30 days after the termination of the
17 hearing, unless additional time up to ~~not to exceed~~ 90 days is
18 required by him for a proper disposition of the matter. When
19 the hearing has been conducted by a hearing officer, the
20 Director shall review the record and findings of fact before
21 rendering a decision. All decisions rendered by the Director
22 shall be binding upon and complied with by the Department, the
23 facility or the persons involved in the hearing, as appropriate
24 to each case. The time periods set forth in this Section are
25 directory and not mandatory, and the Department's failure to

1 act within the stated time periods does not divest the
2 Department of jurisdiction to enforce this Act or otherwise
3 limit or restrict the Department's authority to enforce this
4 Act.

5 (Source: P.A. 81-223.)

6 (210 ILCS 45/3-715 new)

7 Sec. 3-715. Whistleblower protection.

8 (a) "Retaliatory action" means the reprimand, discharge,
9 suspension, demotion, denial of promotion or transfer, or
10 change in the terms and conditions of employment of any
11 employee of a nursing home or facility that is taken in
12 retaliation for the employee's involvement in protected
13 activity, as set forth in this Section.

14 (b) A nursing home or facility shall not take any
15 retaliatory action against an employee of the nursing home or
16 facility, including a nursing home administrator because the
17 employee does any of the following:

18 (1) Discloses or threatens to disclose to a supervisor
19 or to a public body an activity, inaction, policy, or
20 practice implemented by a nursing home or facility that the
21 employee reasonably believes is in violation of a law,
22 rule, or regulation.

23 (2) Provides information to or testifies before any
24 public body conducting an investigation, hearing, or
25 inquiry into any violation of a law, rule, or regulation by

1 a nursing home administrator.

2 (3) Assists or participates in a proceeding to enforce
3 the provisions of this Act.

4 (c) A violation of this Section may be established only
5 upon a finding that (i) the nursing home or facility engaged in
6 conduct described in subsection (b) of this Section and (ii)
7 this conduct was a contributing factor in the retaliatory
8 action alleged by the employee of the nursing home or facility.
9 It is not a violation, however, if it is demonstrated by clear
10 and convincing evidence that the nursing home or facility would
11 have taken the same unfavorable personnel action in the absence
12 of that conduct.

13 (d) The employee of the nursing home or facility may be
14 awarded all remedies necessary to make the employee whole and
15 to prevent future violations of this Section. Remedies imposed
16 by the court may include but are not limited to, all of the
17 following:

18 (1) Reinstatement of the employee to either the same
19 position held before the retaliatory action or to an
20 equivalent position.

21 (2) Two times the amount of back pay.

22 (3) Interest on the back pay.

23 (4) The reinstatement of full fringe benefits and
24 seniority rights.

25 (5) The payment of reasonable costs and attorney's
26 fees.

1 (e) Nothing in this Section shall be deemed to diminish the
2 rights, privileges, or remedies of an employee of a nursing
3 home or facility under any other federal or State law, rule, or
4 regulation or under any employment contract.

5 Section 25. The Hospital Licensing Act is amended by
6 changing Sections 6.09 and 7 as follows:

7 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

8 (Text of Section before amendment by P.A. 96-339)

9 Sec. 6.09. (a) In order to facilitate the orderly
10 transition of aged and disabled patients from hospitals to
11 post-hospital care, whenever a patient who qualifies for the
12 federal Medicare program is hospitalized, the patient shall be
13 notified of discharge at least 24 hours prior to discharge from
14 the hospital. With regard to pending discharges to a skilled
15 nursing facility, the hospital must notify the case
16 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at
17 least 24 hours prior to discharge or, if home health services
18 are ordered, the hospital must inform its designated case
19 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of
20 the pending discharge and must provide the patient with the
21 case coordination unit's telephone number and other contact
22 information.

23 (b) Every hospital shall develop procedures for a physician
24 with medical staff privileges at the hospital or any

1 appropriate medical staff member to provide the discharge
2 notice prescribed in subsection (a) of this Section. The
3 procedures must include prohibitions against discharging or
4 referring a patient to any of the following if unlicensed,
5 uncertified, or unregistered: (i) a board and care facility, as
6 defined in the Board and Care Home Act; (ii) an assisted living
7 and shared housing establishment, as defined in the Assisted
8 Living and Shared Housing Act; (iii) a facility licensed under
9 the Nursing Home Care Act; (iv) a supportive living facility,
10 as defined in Section 5-5.01a of the Illinois Public Aid Code;
11 or (v) a free-standing hospice facility licensed under the
12 Hospice Program Licensing Act if licensure, certification, or
13 registration is required. The Department of Public Health shall
14 annually provide hospitals with a list of licensed, certified,
15 or registered board and care facilities, assisted living and
16 shared housing establishments, nursing homes, supportive
17 living facilities, and hospice facilities. Reliance upon this
18 list by a hospital shall satisfy compliance with this
19 requirement. The procedure may also include a waiver for any
20 case in which a discharge notice is not feasible due to a short
21 length of stay in the hospital by the patient, or for any case
22 in which the patient voluntarily desires to leave the hospital
23 before the expiration of the 24 hour period.

24 (c) At least 24 hours prior to discharge from the hospital,
25 the patient shall receive written information on the patient's
26 right to appeal the discharge pursuant to the federal Medicare

1 program, including the steps to follow to appeal the discharge
2 and the appropriate telephone number to call in case the
3 patient intends to appeal the discharge.

4 (Source: P.A. 94-335, eff. 7-26-05; 95-80, eff. 8-13-07;
5 95-651, eff. 10-11-07; 95-876, eff. 8-21-08.)

6 (Text of Section after amendment by P.A. 96-339)

7 Sec. 6.09. (a) In order to facilitate the orderly
8 transition of aged and disabled patients from hospitals to
9 post-hospital care, whenever a patient who qualifies for the
10 federal Medicare program is hospitalized, the patient shall be
11 notified of discharge at least 24 hours prior to discharge from
12 the hospital. With regard to pending discharges to a skilled
13 nursing facility, the hospital must notify the case
14 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at
15 least 24 hours prior to discharge or, if home health services
16 are ordered, the hospital must inform its designated case
17 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of
18 the pending discharge and must provide the patient with the
19 case coordination unit's telephone number and other contact
20 information.

21 (b) Every hospital shall develop procedures for a physician
22 with medical staff privileges at the hospital or any
23 appropriate medical staff member to provide the discharge
24 notice prescribed in subsection (a) of this Section. The
25 procedures must include prohibitions against discharging or

1 referring a patient to any of the following if unlicensed,
2 uncertified, or unregistered: (i) a board and care facility, as
3 defined in the Board and Care Home Act; (ii) an assisted living
4 and shared housing establishment, as defined in the Assisted
5 Living and Shared Housing Act; (iii) a facility licensed under
6 the Nursing Home Care Act or the MR/DD Community Care Act; (iv)
7 a supportive living facility, as defined in Section 5-5.01a of
8 the Illinois Public Aid Code; or (v) a free-standing hospice
9 facility licensed under the Hospice Program Licensing Act if
10 licensure, certification, or registration is required. The
11 Department of Public Health shall annually provide hospitals
12 with a list of licensed, certified, or registered board and
13 care facilities, assisted living and shared housing
14 establishments, nursing homes, supportive living facilities,
15 facilities licensed under the MR/DD Community Care Act, and
16 hospice facilities. Reliance upon this list by a hospital shall
17 satisfy compliance with this requirement. The procedure may
18 also include a waiver for any case in which a discharge notice
19 is not feasible due to a short length of stay in the hospital
20 by the patient, or for any case in which the patient
21 voluntarily desires to leave the hospital before the expiration
22 of the 24 hour period.

23 (c) At least 24 hours prior to discharge from the hospital,
24 the patient shall receive written information on the patient's
25 right to appeal the discharge pursuant to the federal Medicare
26 program, including the steps to follow to appeal the discharge

1 and the appropriate telephone number to call in case the
2 patient intends to appeal the discharge.

3 (d) No later than 48 hours prior to discharge from the
4 hospital to a facility licensed under the Nursing Home Care
5 Act, the hospital shall request a criminal history background
6 check pursuant to the Uniform Conviction Information Act for
7 all persons age 18 or older. Background checks conducted
8 pursuant to this Section shall be based on the patient's name,
9 date of birth, and other identifiers as required by the
10 Department of State Police. Results shall be immediately
11 forwarded to the receiving long-term care facility. If the
12 results of the background check are received prior to transfer
13 and are inconclusive, the hospital shall initiate a
14 fingerprint-based check, unless the fingerprint check is
15 waived by the Director of Public Health based on verification
16 by the hospital that the patient is completely immobile or that
17 the patient meets other criteria related to the patient's
18 health or lack of potential risk. A waiver issued pursuant to
19 this Section is valid only while the patient is immobile or
20 while the criteria supporting the waiver exist. The hospital
21 shall provide for or arrange for any required fingerprint-based
22 checks to be taken on the premises of the hospital. If a
23 fingerprint-based check is required, the hospital shall
24 arrange for it to be conducted in a manner that is respectful
25 of the patient's dignity and that minimizes any emotional or
26 physical hardship to the patient. Failure to comply with this

1 provision shall be the basis of adverse licensure action and
2 monetary penalties as provided by Section 7 of this Act.

3 (Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07;
4 95-876, eff. 8-21-08; 96-339, eff. 7-1-10.)

5 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

6 Sec. 7. (a) The Director after notice and opportunity for
7 hearing to the applicant or licensee may deny, suspend, or
8 revoke a permit to establish a hospital or deny, suspend, or
9 revoke a license to open, conduct, operate, and maintain a
10 hospital in any case in which he finds that there has been a
11 substantial failure to comply with the provisions of this Act,
12 the Hospital Report Card Act, or the Illinois Adverse Health
13 Care Events Reporting Law of 2005 or the standards, rules, and
14 regulations established by virtue of any of those Acts. The
15 Department may assess a fine of no less than \$10,000 per
16 violation of this Act.

17 (b) Such notice shall be effected by registered mail or by
18 personal service setting forth the particular reasons for the
19 proposed action and fixing a date, not less than 15 days from
20 the date of such mailing or service, at which time the
21 applicant or licensee shall be given an opportunity for a
22 hearing. Such hearing shall be conducted by the Director or by
23 an employee of the Department designated in writing by the
24 Director as Hearing Officer to conduct the hearing. On the
25 basis of any such hearing, or upon default of the applicant or

1 licensee, the Director shall make a determination specifying
2 his findings and conclusions. In case of a denial to an
3 applicant of a permit to establish a hospital, such
4 determination shall specify the subsection of Section 6 under
5 which the permit was denied and shall contain findings of fact
6 forming the basis of such denial. A copy of such determination
7 shall be sent by registered mail or served personally upon the
8 applicant or licensee. The decision denying, suspending, or
9 revoking a permit or a license shall become final 35 days after
10 it is so mailed or served, unless the applicant or licensee,
11 within such 35 day period, petitions for review pursuant to
12 Section 13.

13 (c) The procedure governing hearings authorized by this
14 Section shall be in accordance with rules promulgated by the
15 Department and approved by the Hospital Licensing Board. A full
16 and complete record shall be kept of all proceedings, including
17 the notice of hearing, complaint, and all other documents in
18 the nature of pleadings, written motions filed in the
19 proceedings, and the report and orders of the Director and
20 Hearing Officer. All testimony shall be reported but need not
21 be transcribed unless the decision is appealed pursuant to
22 Section 13. A copy or copies of the transcript may be obtained
23 by any interested party on payment of the cost of preparing
24 such copy or copies.

25 (d) The Director or Hearing Officer shall upon his own
26 motion, or on the written request of any party to the

1 proceeding, issue subpoenas requiring the attendance and the
2 giving of testimony by witnesses, and subpoenas duces tecum
3 requiring the production of books, papers, records, or
4 memoranda. All subpoenas and subpoenas duces tecum issued under
5 the terms of this Act may be served by any person of full age.
6 The fees of witnesses for attendance and travel shall be the
7 same as the fees of witnesses before the Circuit Court of this
8 State, such fees to be paid when the witness is excused from
9 further attendance. When the witness is subpoenaed at the
10 instance of the Director, or Hearing Officer, such fees shall
11 be paid in the same manner as other expenses of the Department,
12 and when the witness is subpoenaed at the instance of any other
13 party to any such proceeding the Department may require that
14 the cost of service of the subpoena or subpoena duces tecum and
15 the fee of the witness be borne by the party at whose instance
16 the witness is summoned. In such case, the Department in its
17 discretion, may require a deposit to cover the cost of such
18 service and witness fees. A subpoena or subpoena duces tecum
19 issued as aforesaid shall be served in the same manner as a
20 subpoena issued out of a court.

21 (e) Any Circuit Court of this State upon the application of
22 the Director, or upon the application of any other party to the
23 proceeding, may, in its discretion, compel the attendance of
24 witnesses, the production of books, papers, records, or
25 memoranda and the giving of testimony before the Director or
26 Hearing Officer conducting an investigation or holding a

1 hearing authorized by this Act, by an attachment for contempt,
2 or otherwise, in the same manner as production of evidence may
3 be compelled before the court.

4 (f) The Director or Hearing Officer, or any party in an
5 investigation or hearing before the Department, may cause the
6 depositions of witnesses within the State to be taken in the
7 manner prescribed by law for like depositions in civil actions
8 in courts of this State, and to that end compel the attendance
9 of witnesses and the production of books, papers, records, or
10 memoranda.

11 (Source: P.A. 93-563, eff. 1-1-04; 94-242, eff. 7-18-05.)

12 Section 30. The Medical Practice Act of 1987 is amended by
13 changing Sections 23 and 36 as follows:

14 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

15 (Section scheduled to be repealed on December 31, 2010)

16 Sec. 23. Reports relating to professional conduct and
17 capacity.

18 (A) Entities required to report.

19 (1) Health care institutions. The chief administrator
20 or executive officer of any health care institution
21 licensed by the Illinois Department of Public Health shall
22 report to the Disciplinary Board when any person's clinical
23 privileges are terminated or are restricted based on a
24 final determination, in accordance with that institution's

1 by-laws or rules and regulations, that a person has either
2 committed an act or acts which may directly threaten
3 patient care, and not of an administrative nature, or that
4 a person may be mentally or physically disabled in such a
5 manner as to endanger patients under that person's care.
6 Such officer also shall report if a person accepts
7 voluntary termination or restriction of clinical
8 privileges in lieu of formal action based upon conduct
9 related directly to patient care and not of an
10 administrative nature, or in lieu of formal action seeking
11 to determine whether a person may be mentally or physically
12 disabled in such a manner as to endanger patients under
13 that person's care. The Medical Disciplinary Board shall,
14 by rule, provide for the reporting to it of all instances
15 in which a person, licensed under this Act, who is impaired
16 by reason of age, drug or alcohol abuse or physical or
17 mental impairment, is under supervision and, where
18 appropriate, is in a program of rehabilitation. Such
19 reports shall be strictly confidential and may be reviewed
20 and considered only by the members of the Disciplinary
21 Board, or by authorized staff as provided by rules of the
22 Disciplinary Board. Provisions shall be made for the
23 periodic report of the status of any such person not less
24 than twice annually in order that the Disciplinary Board
25 shall have current information upon which to determine the
26 status of any such person. Such initial and periodic

1 reports of impaired physicians shall not be considered
2 records within the meaning of The State Records Act and
3 shall be disposed of, following a determination by the
4 Disciplinary Board that such reports are no longer
5 required, in a manner and at such time as the Disciplinary
6 Board shall determine by rule. The filing of such reports
7 shall be construed as the filing of a report for purposes
8 of subsection (C) of this Section.

9 (2) Professional associations. The President or chief
10 executive officer of any association or society, of persons
11 licensed under this Act, operating within this State shall
12 report to the Disciplinary Board when the association or
13 society renders a final determination that a person has
14 committed unprofessional conduct related directly to
15 patient care or that a person may be mentally or physically
16 disabled in such a manner as to endanger patients under
17 that person's care.

18 (3) Professional liability insurers. Every insurance
19 company which offers policies of professional liability
20 insurance to persons licensed under this Act, or any other
21 entity which seeks to indemnify the professional liability
22 of a person licensed under this Act, shall report to the
23 Disciplinary Board the settlement of any claim or cause of
24 action, or final judgment rendered in any cause of action,
25 which alleged negligence in the furnishing of medical care
26 by such licensed person when such settlement or final

1 judgment is in favor of the plaintiff.

2 (4) State's Attorneys. The State's Attorney of each
3 county shall report to the Disciplinary Board all instances
4 in which a person licensed under this Act is convicted or
5 otherwise found guilty of the commission of any felony. The
6 State's Attorney of each county may report to the
7 Disciplinary Board through a verified complaint any
8 instance in which the State's Attorney believes that a
9 physician has willfully violated the notice requirements
10 of the Parental Notice of Abortion Act of 1995.

11 (5) State agencies. All agencies, boards, commissions,
12 departments, or other instrumentalities of the government
13 of the State of Illinois shall report to the Disciplinary
14 Board any instance arising in connection with the
15 operations of such agency, including the administration of
16 any law by such agency, in which a person licensed under
17 this Act has either committed an act or acts which may be a
18 violation of this Act or which may constitute
19 unprofessional conduct related directly to patient care or
20 which indicates that a person licensed under this Act may
21 be mentally or physically disabled in such a manner as to
22 endanger patients under that person's care.

23 (B) Mandatory reporting. All reports required by items
24 (34), (35), and (36) of subsection (A) of Section 22 and by
25 Section 23 shall be submitted to the Disciplinary Board in a
26 timely fashion. The reports shall be filed in writing within 60

1 days after a determination that a report is required under this
2 Act. All reports shall contain the following information:

3 (1) The name, address and telephone number of the
4 person making the report.

5 (2) The name, address and telephone number of the
6 person who is the subject of the report.

7 (3) The name and date of birth of any patient or
8 patients whose treatment is a subject of the report, if
9 available, or other means of identification if such
10 information is not available, identification of the
11 hospital or other healthcare facility where the care at
12 issue in the report was rendered, provided, however, no
13 medical records may be revealed.

14 (4) A brief description of the facts which gave rise to
15 the issuance of the report, including the dates of any
16 occurrences deemed to necessitate the filing of the report.

17 (5) If court action is involved, the identity of the
18 court in which the action is filed, along with the docket
19 number and date of filing of the action.

20 (6) Any further pertinent information which the
21 reporting party deems to be an aid in the evaluation of the
22 report.

23 The Disciplinary Board or Department may also exercise the
24 power under Section 38 of this Act to subpoena copies of
25 hospital or medical records in mandatory report cases alleging
26 death or permanent bodily injury. Appropriate rules shall be

1 adopted by the Department with the approval of the Disciplinary
2 Board.

3 When the Department has received written reports
4 concerning incidents required to be reported in items (34),
5 (35), and (36) of subsection (A) of Section 22, the licensee's
6 failure to report the incident to the Department under those
7 items shall not be the sole grounds for disciplinary action.

8 Nothing contained in this Section shall act to in any way,
9 waive or modify the confidentiality of medical reports and
10 committee reports to the extent provided by law. Any
11 information reported or disclosed shall be kept for the
12 confidential use of the Disciplinary Board, the Medical
13 Coordinators, the Disciplinary Board's attorneys, the medical
14 investigative staff, and authorized clerical staff, as
15 provided in this Act, and shall be afforded the same status as
16 is provided information concerning medical studies in Part 21
17 of Article VIII of the Code of Civil Procedure, except that the
18 Department may disclose information and documents to a federal,
19 State, or local law enforcement agency pursuant to a subpoena
20 in an ongoing criminal investigation or to a healthcare
21 licensing body of this State or another state or jurisdiction
22 pursuant to an official request made by that authority.
23 Furthermore, information and documents disclosed to a federal,
24 State, or local law enforcement agency may be used by that
25 agency only for the investigation and prosecution of a criminal
26 offense. Information and documents disclosed to the Department

1 of Public Health may be used by that Department only for
2 investigation and disciplinary action regarding the license of
3 a health care institution licensed by the Department of Public
4 Health.

5 (C) Immunity from prosecution. Any individual or
6 organization acting in good faith, and not in a wilful and
7 wanton manner, in complying with this Act by providing any
8 report or other information to the Disciplinary Board or a peer
9 review committee, or assisting in the investigation or
10 preparation of such information, or by voluntarily reporting to
11 the Disciplinary Board or a peer review committee information
12 regarding alleged errors or negligence by a person licensed
13 under this Act, or by participating in proceedings of the
14 Disciplinary Board or a peer review committee, or by serving as
15 a member of the Disciplinary Board or a peer review committee,
16 shall not, as a result of such actions, be subject to criminal
17 prosecution or civil damages.

18 (D) Indemnification. Members of the Disciplinary Board,
19 the Medical Coordinators, the Disciplinary Board's attorneys,
20 the medical investigative staff, physicians retained under
21 contract to assist and advise the medical coordinators in the
22 investigation, and authorized clerical staff shall be
23 indemnified by the State for any actions occurring within the
24 scope of services on the Disciplinary Board, done in good faith
25 and not wilful and wanton in nature. The Attorney General shall
26 defend all such actions unless he or she determines either that

1 there would be a conflict of interest in such representation or
2 that the actions complained of were not in good faith or were
3 wilful and wanton.

4 Should the Attorney General decline representation, the
5 member shall have the right to employ counsel of his or her
6 choice, whose fees shall be provided by the State, after
7 approval by the Attorney General, unless there is a
8 determination by a court that the member's actions were not in
9 good faith or were wilful and wanton.

10 The member must notify the Attorney General within 7 days
11 of receipt of notice of the initiation of any action involving
12 services of the Disciplinary Board. Failure to so notify the
13 Attorney General shall constitute an absolute waiver of the
14 right to a defense and indemnification.

15 The Attorney General shall determine within 7 days after
16 receiving such notice, whether he or she will undertake to
17 represent the member.

18 (E) Deliberations of Disciplinary Board. Upon the receipt
19 of any report called for by this Act, other than those reports
20 of impaired persons licensed under this Act required pursuant
21 to the rules of the Disciplinary Board, the Disciplinary Board
22 shall notify in writing, by certified mail, the person who is
23 the subject of the report. Such notification shall be made
24 within 30 days of receipt by the Disciplinary Board of the
25 report.

26 The notification shall include a written notice setting

1 forth the person's right to examine the report. Included in
2 such notification shall be the address at which the file is
3 maintained, the name of the custodian of the reports, and the
4 telephone number at which the custodian may be reached. The
5 person who is the subject of the report shall submit a written
6 statement responding, clarifying, adding to, or proposing the
7 amending of the report previously filed. The person who is the
8 subject of the report shall also submit with the written
9 statement any medical records related to the report. The
10 statement and accompanying medical records shall become a
11 permanent part of the file and must be received by the
12 Disciplinary Board no more than 30 days after the date on which
13 the person was notified by the Disciplinary Board of the
14 existence of the original report.

15 The Disciplinary Board shall review all reports received by
16 it, together with any supporting information and responding
17 statements submitted by persons who are the subject of reports.
18 The review by the Disciplinary Board shall be in a timely
19 manner but in no event, shall the Disciplinary Board's initial
20 review of the material contained in each disciplinary file be
21 less than 61 days nor more than 180 days after the receipt of
22 the initial report by the Disciplinary Board.

23 When the Disciplinary Board makes its initial review of the
24 materials contained within its disciplinary files, the
25 Disciplinary Board shall, in writing, make a determination as
26 to whether there are sufficient facts to warrant further

1 investigation or action. Failure to make such determination
2 within the time provided shall be deemed to be a determination
3 that there are not sufficient facts to warrant further
4 investigation or action.

5 Should the Disciplinary Board find that there are not
6 sufficient facts to warrant further investigation, or action,
7 the report shall be accepted for filing and the matter shall be
8 deemed closed and so reported to the Secretary. The Secretary
9 shall then have 30 days to accept the Medical Disciplinary
10 Board's decision or request further investigation. The
11 Secretary shall inform the Board in writing of the decision to
12 request further investigation, including the specific reasons
13 for the decision. The individual or entity filing the original
14 report or complaint and the person who is the subject of the
15 report or complaint shall be notified in writing by the
16 Secretary of any final action on their report or complaint.

17 (F) Summary reports. The Disciplinary Board shall prepare,
18 on a timely basis, but in no event less than once every other
19 month, a summary report of final actions taken upon
20 disciplinary files maintained by the Disciplinary Board. The
21 summary reports shall be made available to the public upon
22 request and payment of the fees set by the Department. This
23 publication may be made available to the public on the
24 Department's Internet website.

25 (G) Any violation of this Section shall be a Class A
26 misdemeanor.

1 (H) If any such person violates the provisions of this
2 Section an action may be brought in the name of the People of
3 the State of Illinois, through the Attorney General of the
4 State of Illinois, for an order enjoining such violation or for
5 an order enforcing compliance with this Section. Upon filing of
6 a verified petition in such court, the court may issue a
7 temporary restraining order without notice or bond and may
8 preliminarily or permanently enjoin such violation, and if it
9 is established that such person has violated or is violating
10 the injunction, the court may punish the offender for contempt
11 of court. Proceedings under this paragraph shall be in addition
12 to, and not in lieu of, all other remedies and penalties
13 provided for by this Section.

14 (Source: P.A. 94-677, eff. 8-25-05; 95-639, eff. 10-5-07.)

15 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

16 (Section scheduled to be repealed on December 31, 2010)

17 Sec. 36. Upon the motion of either the Department or the
18 Disciplinary Board or upon the verified complaint in writing of
19 any person setting forth facts which, if proven, would
20 constitute grounds for suspension or revocation under Section
21 22 of this Act, the Department shall investigate the actions of
22 any person, so accused, who holds or represents that they hold
23 a license. Such person is hereinafter called the accused.

24 The Department shall, before suspending, revoking, placing
25 on probationary status, or taking any other disciplinary action

1 as the Department may deem proper with regard to any license at
2 least 30 days prior to the date set for the hearing, notify the
3 accused in writing of any charges made and the time and place
4 for a hearing of the charges before the Disciplinary Board,
5 direct them to file their written answer thereto to the
6 Disciplinary Board under oath within 20 days after the service
7 on them of such notice and inform them that if they fail to
8 file such answer default will be taken against them and their
9 license may be suspended, revoked, placed on probationary
10 status, or have other disciplinary action, including limiting
11 the scope, nature or extent of their practice, as the
12 Department may deem proper taken with regard thereto.

13 Where a physician has been found, upon complaint and
14 investigation of the Department, and after hearing, to have
15 performed an abortion procedure in a wilful and wanton manner
16 upon a woman who was not pregnant at the time such abortion
17 procedure was performed, the Department shall automatically
18 revoke the license of such physician to practice medicine in
19 Illinois.

20 Such written notice and any notice in such proceedings
21 thereafter may be served by delivery of the same, personally,
22 to the accused person, or by mailing the same by registered or
23 certified mail to the address last theretofore specified by the
24 accused in their last notification to the Department.

25 All information gathered by the Department during its
26 investigation including information subpoenaed under Section

1 23 or 38 of this Act and the investigative file shall be kept
2 for the confidential use of the Secretary, Disciplinary Board,
3 the Medical Coordinators, persons employed by contract to
4 advise the Medical Coordinator or the Department, the
5 Disciplinary Board's attorneys, the medical investigative
6 staff, and authorized clerical staff, as provided in this Act
7 and shall be afforded the same status as is provided
8 information concerning medical studies in Part 21 of Article
9 VIII of the Code of Civil Procedure, except that the Department
10 may disclose information and documents to a federal, State, or
11 local law enforcement agency pursuant to a subpoena in an
12 ongoing criminal investigation or to a healthcare licensing
13 body of this State or another state or jurisdiction.
14 Furthermore, information and documents disclosed to a federal,
15 State, or local law enforcement agency may be used by that
16 agency only for the investigation and prosecution of a criminal
17 offense or, in the case of disclosure to a health care
18 licensing authority, only for investigations and disciplinary
19 action proceedings with regard to a license.

20 (Source: P.A. 94-677, eff. 8-25-05.)

21 Section 35. The Nursing Home Administrators Licensing and
22 Disciplinary Act is amended by changing Sections 17 and 22 and
23 by adding Sections 17.1 and 38 as follows:

24 (225 ILCS 70/17) (from Ch. 111, par. 3667)

1 (Text of Section after amendment by P.A. 96-339)

2 (Section scheduled to be repealed on January 1, 2018)

3 Sec. 17. Grounds for disciplinary action.

4 (a) The Department may impose fines not to exceed \$10,000
5 or may refuse to issue or to renew, or may revoke, suspend,
6 place on probation, censure, reprimand or take other
7 disciplinary or non-disciplinary action with regard to the
8 license of any person, for any one or combination of the
9 following causes:

10 (1) Intentional material misstatement in furnishing
11 information to the Department.

12 (2) Conviction of or entry of a plea of guilty or nolo
13 contendere to any crime that is a felony under the laws of
14 the United States or any state or territory thereof or a
15 misdemeanor of which an essential element is dishonesty or
16 that is directly related to the practice of the profession
17 of nursing home administration.

18 (3) Making any misrepresentation for the purpose of
19 obtaining a license, or violating any provision of this
20 Act.

21 (4) Immoral conduct in the commission of any act, such
22 as sexual abuse or sexual misconduct, related to the
23 licensee's practice.

24 (5) Failing to respond within 30 days, to a written
25 request made by the Department for information.

26 (6) Engaging in dishonorable, unethical or

1 unprofessional conduct of a character likely to deceive,
2 defraud or harm the public.

3 (7) Habitual use or addiction to alcohol, narcotics,
4 stimulants, or any other chemical agent or drug which
5 results in the inability to practice with reasonable
6 judgment, skill or safety.

7 (8) Discipline by another U.S. jurisdiction if at least
8 one of the grounds for the discipline is the same or
9 substantially equivalent to those set forth herein.

10 (9) A finding by the Department that the licensee,
11 after having his or her license placed on probationary
12 status has violated the terms of probation.

13 (10) Willfully making or filing false records or
14 reports in his or her practice, including but not limited
15 to false records filed with State agencies or departments.

16 (11) Physical illness, mental illness, or other
17 impairment or disability, including, but not limited to,
18 deterioration through the aging process, or loss of motor
19 skill that results in the inability to practice the
20 profession with reasonable judgment, skill or safety.

21 (12) Disregard or violation of this Act or of any rule
22 issued pursuant to this Act.

23 (13) Aiding or abetting another in the violation of
24 this Act or any rule or regulation issued pursuant to this
25 Act.

26 (14) Allowing one's license to be used by an unlicensed

1 person.

2 (15) (Blank).

3 (16) Professional incompetence in the practice of
4 nursing home administration.

5 (17) Conviction of a violation of Section 12-19 of the
6 Criminal Code of 1961 for the abuse and gross neglect of a
7 long term care facility resident.

8 (18) Violation of the Nursing Home Care Act or the
9 MR/DD Community Care Act or of any rule issued under the
10 Nursing Home Care Act or the MR/DD Community Care Act. A
11 Type "AA" or a Type "A" substandard quality of care finding
12 by the Illinois Department of Public Health against a
13 nursing home under the Nursing Home Care Act or the MR/DD
14 Community Care Act shall be prima facie evidence of a
15 violation of this item (18).

16 (19) Failure to report to the Department any adverse
17 final action taken against the licensee by a licensing
18 authority of another state, territory of the United States,
19 or foreign country; or by any governmental or law
20 enforcement agency; or by any court for acts or conduct
21 similar to acts or conduct that would constitute grounds
22 for disciplinary action under this Section.

23 (20) Failure to report to the Department the surrender
24 of a license or authorization to practice as a nursing home
25 administrator in another state or jurisdiction for acts or
26 conduct similar to acts or conduct that would constitute

1 grounds for disciplinary action under this Section.

2 (21) Failure to report to the Department any adverse
3 judgment, settlement, or award arising from a liability
4 claim related to acts or conduct similar to acts or conduct
5 which would constitute grounds for disciplinary action
6 under this Section.

7 All proceedings to suspend, revoke, place on probationary
8 status, or take any other disciplinary action as the Department
9 may deem proper, with regard to a license on any of the
10 foregoing grounds, must be commenced within 5 years next after
11 receipt by the Department of (i) a complaint alleging the
12 commission of or notice of the conviction order for any of the
13 acts described herein or (ii) a referral for investigation
14 under Section 3-108 of the Nursing Home Care Act.

15 The entry of an order or judgment by any circuit court
16 establishing that any person holding a license under this Act
17 is a person in need of mental treatment operates as a
18 suspension of that license. That person may resume their
19 practice only upon the entry of a Department order based upon a
20 finding by the Board that they have been determined to be
21 recovered from mental illness by the court and upon the Board's
22 recommendation that they be permitted to resume their practice.

23 The Department, upon the recommendation of the Board, may
24 adopt rules which set forth standards to be used in determining
25 what constitutes:

26 (i) when a person will be deemed sufficiently

1 rehabilitated to warrant the public trust;

2 (ii) dishonorable, unethical or unprofessional conduct
3 of a character likely to deceive, defraud, or harm the
4 public;

5 (iii) immoral conduct in the commission of any act
6 related to the licensee's practice; and

7 (iv) professional incompetence in the practice of
8 nursing home administration.

9 However, no such rule shall be admissible into evidence in
10 any civil action except for review of a licensing or other
11 disciplinary action under this Act.

12 In enforcing this Section, the Department or Board, upon a
13 showing of a possible violation, may compel any individual
14 licensed to practice under this Act, or who has applied for
15 licensure pursuant to this Act, to submit to a mental or
16 physical examination, or both, as required by and at the
17 expense of the Department. The examining physician or
18 physicians shall be those specifically designated by the
19 Department or Board. The Department or Board may order the
20 examining physician to present testimony concerning this
21 mental or physical examination of the licensee or applicant. No
22 information shall be excluded by reason of any common law or
23 statutory privilege relating to communications between the
24 licensee or applicant and the examining physician. The
25 individual to be examined may have, at his or her own expense,
26 another physician of his or her choice present during all

1 aspects of the examination. Failure of any individual to submit
2 to mental or physical examination, when directed, shall be
3 grounds for suspension of his or her license until such time as
4 the individual submits to the examination if the Department
5 finds, after notice and hearing, that the refusal to submit to
6 the examination was without reasonable cause.

7 If the Department or Board finds an individual unable to
8 practice because of the reasons set forth in this Section, the
9 Department or Board shall require such individual to submit to
10 care, counseling, or treatment by physicians approved or
11 designated by the Department or Board, as a condition, term, or
12 restriction for continued, reinstated, or renewed licensure to
13 practice; or in lieu of care, counseling, or treatment, the
14 Department may file, or the Board may recommend to the
15 Department to file, a complaint to immediately suspend, revoke,
16 or otherwise discipline the license of the individual. Any
17 individual whose license was granted pursuant to this Act or
18 continued, reinstated, renewed, disciplined or supervised,
19 subject to such terms, conditions or restrictions who shall
20 fail to comply with such terms, conditions or restrictions
21 shall be referred to the Secretary for a determination as to
22 whether the licensee shall have his or her license suspended
23 immediately, pending a hearing by the Department. In instances
24 in which the Secretary immediately suspends a license under
25 this Section, a hearing upon such person's license must be
26 convened by the Board within 30 days after such suspension and

1 completed without appreciable delay. The Department and Board
2 shall have the authority to review the subject administrator's
3 record of treatment and counseling regarding the impairment, to
4 the extent permitted by applicable federal statutes and
5 regulations safeguarding the confidentiality of medical
6 records.

7 An individual licensed under this Act, affected under this
8 Section, shall be afforded an opportunity to demonstrate to the
9 Department or Board that he or she can resume practice in
10 compliance with acceptable and prevailing standards under the
11 provisions of his or her license.

12 (b) Any individual or organization acting in good faith,
13 and not in a wilful and wanton manner, in complying with this
14 Act by providing any report or other information to the
15 Department, or assisting in the investigation or preparation of
16 such information, or by participating in proceedings of the
17 Department, or by serving as a member of the Board, shall not,
18 as a result of such actions, be subject to criminal prosecution
19 or civil damages.

20 (c) Members of the Board, and persons retained under
21 contract to assist and advise in an investigation, shall be
22 indemnified by the State for any actions occurring within the
23 scope of services on or for the Board, done in good faith and
24 not wilful and wanton in nature. The Attorney General shall
25 defend all such actions unless he or she determines either that
26 there would be a conflict of interest in such representation or

1 that the actions complained of were not in good faith or were
2 wilful and wanton.

3 Should the Attorney General decline representation, a
4 person entitled to indemnification under this Section shall
5 have the right to employ counsel of his or her choice, whose
6 fees shall be provided by the State, after approval by the
7 Attorney General, unless there is a determination by a court
8 that the member's actions were not in good faith or were wilful
9 and wanton.

10 A person entitled to indemnification under this Section
11 must notify the Attorney General within 7 days of receipt of
12 notice of the initiation of any action involving services of
13 the Board. Failure to so notify the Attorney General shall
14 constitute an absolute waiver of the right to a defense and
15 indemnification.

16 The Attorney General shall determine within 7 days after
17 receiving such notice, whether he or she will undertake to
18 represent a person entitled to indemnification under this
19 Section.

20 (d) The determination by a circuit court that a licensee is
21 subject to involuntary admission or judicial admission as
22 provided in the Mental Health and Developmental Disabilities
23 Code, as amended, operates as an automatic suspension. Such
24 suspension will end only upon a finding by a court that the
25 patient is no longer subject to involuntary admission or
26 judicial admission and issues an order so finding and

1 discharging the patient; and upon the recommendation of the
2 Board to the Secretary that the licensee be allowed to resume
3 his or her practice.

4 (e) The Department may refuse to issue or may suspend the
5 license of any person who fails to file a return, or to pay the
6 tax, penalty or interest shown in a filed return, or to pay any
7 final assessment of tax, penalty or interest, as required by
8 any tax Act administered by the Department of Revenue, until
9 such time as the requirements of any such tax Act are
10 satisfied.

11 (f) The Department of Public Health shall transmit to the
12 Department a list of those facilities which receive an "A"
13 violation as defined in Section 1-129 of the Nursing Home Care
14 Act.

15 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10.)

16 (225 ILCS 70/17.1 new)

17 Sec. 17.1. Reports relating to professional conduct and
18 capacity.

19 (a) The chief administrator or executive officer of any
20 health care institution licensed by the Illinois Department of
21 Public Health, including nursing homes, shall report to the
22 Department any instance arising in connection with operations
23 of the health care institution, including the administration of
24 any law by the institution, in which a licensee under this Act
25 has either committed an act or acts which may constitute a

1 violation of this Act or unprofessional conduct related
2 directly to patient care, or which may indicate that the
3 licensee may be mentally or physically disabled in such a
4 manner as to endanger patients under that licensee's care.
5 Additionally, every nursing home shall report to the Department
6 any instance when a licensee is terminated for cause.

7 (b) Any insurance company that offers policies of
8 professional liability insurance to licensees, or any other
9 entity that seeks to indemnify the professional liability of a
10 licensee, shall report the settlement of any claim or adverse
11 final judgment rendered in any cause of action that alleged
12 negligence in planning, organizing, directing, or supervising
13 the operation of a nursing home by the licensee.

14 (c) The State's Attorney of each county shall report to the
15 Department each instance in which a licensee is convicted of or
16 enters a plea of guilty or nolo contendere to any crime that is
17 a felony or of which an essential element is dishonesty or that
18 is directly related to the practice of the profession of
19 nursing home administration.

20 (d) Any agency, board, commission, department, or other
21 instrumentality of the government of the State of Illinois
22 shall report to the Department any instance arising in
23 connection with the operations of the agency, including the
24 administration of any law by the agency, in which a licensee
25 under this Act has either committed an act or acts which may
26 constitute a violation of this Act or unprofessional conduct

1 related directly to planning, organizing, directing or
2 supervising the operation of a nursing home, or which may
3 indicate that a licensee may be mentally or physically disabled
4 in such a manner as to endanger others.

5 (e) All reports required by items (19), (20), and (21) of
6 subsection (a) of Section 17 and by this Section 17.1 shall be
7 submitted to the Department in a timely fashion. The reports
8 shall be filed in writing within 60 days after a determination
9 that a report is required under this Act. All reports shall
10 contain the following information:

11 (1) The name, address, and telephone number of the
12 person making the report.

13 (2) The name, address, and telephone number of the
14 person that is the subject of the report.

15 (3) The name and date of birth of any person or persons
16 whose treatment is a subject of the report, or other means
17 of identification if such information is not available, and
18 identification of the nursing home facility where the care
19 at issue in the report was rendered.

20 (4) A brief description of the facts which gave rise to
21 the issuance of the report, including the dates of any
22 occurrences deemed to necessitate the filing of the report.

23 (5) If court action is involved, then the identity of
24 the court in which the action is filed, along with the
25 docket number and the date of filing the action.

26 (6) Any further pertinent information which the

1 reporting party deems to be an aid in the evaluation of the
2 report.

3 If the Department receives a written report concerning an
4 incident required to be reported in either items (19), (20),
5 and (21) of subsection (a) of Section 17 or this Section 17.1,
6 then the licensee's failure to report the incident to the
7 Department within 60 days may not be the sole grounds for any
8 disciplinary action against the licensee.

9 (f) Any individual or organization acting in good faith,
10 and not in a wilful and wanton manner, in complying with this
11 Act by providing any report or other information to the
12 Department, or assisting in the investigation or preparation of
13 such information, or by voluntarily reporting to the Department
14 information regarding alleged errors or negligence by a
15 licensee, or by participating in proceedings of the Department,
16 shall not, as a result of such actions, be subject to criminal
17 prosecution or civil damages.

18 (g) Upon the receipt of any report required by this Act,
19 the Department shall notify in writing, by certified mail, the
20 person who is the subject of the report. Such notification
21 shall be made within 30 days after receipt by the Department of
22 the report.

23 The notification shall include a written notice setting
24 forth the person's right to examine the report. The
25 notification shall also include the address at which the file
26 is maintained, the name of the custodian of the file, and the

1 telephone number at which the custodian may be reached. The
2 person who is the subject of the report shall submit a written
3 statement responding, clarifying, adding to, or proposing the
4 amending of the report previously filed. The statement shall
5 become a permanent part of the file and must be received by the
6 Department no more than 30 days after the date on which the
7 person was notified by the Department of the existence of the
8 original report.

9 The Department shall review a report received by it,
10 together with any supporting information and responding
11 statements submitted by the person who is the subject of the
12 report. The review by the Department shall be in a timely
13 manner, but in no event shall the Department's initial review
14 of the material contained in each disciplinary file last less
15 than 61 days nor more than 180 days after the receipt of the
16 initial report by the Department.

17 When the Department makes its initial review of the
18 materials contained within its disciplinary files, the
19 Department shall, in writing, make a determination as to
20 whether there are sufficient facts to warrant further
21 investigation or action. Failure to make such determination
22 within the time provided shall be deemed to be a determination
23 that there are not sufficient facts to warrant further
24 investigation or action.

25 (h) Any violation of this Section shall be a Class A
26 misdemeanor.

1 (i) If any person or entity violates the provisions of this
2 Section, then an action may be brought in the name of the
3 People of the State of Illinois, through the Attorney General
4 of the State of Illinois, for an order enjoining such violation
5 or for an order enforcing compliance with this Section. Upon
6 filing of a verified petition in such court, the court may
7 issue a temporary restraining order without notice or bond and
8 may preliminarily or permanently enjoin such violation, and if
9 it is established that such person or entity has violated or is
10 violating the injunction, the court may punish the offender for
11 contempt of court. Proceedings under this subsection (i) shall
12 be in addition to, and not in lieu of, all other remedies and
13 penalties provided for by this Section.

14 (225 ILCS 70/22) (from Ch. 111, par. 3672)

15 (Section scheduled to be repealed on January 1, 2018)

16 Sec. 22. Subpoena power. The Board or Department has power
17 to subpoena and bring before it any person in this State and to
18 take testimony either orally or by deposition, or both, with
19 the same fees and mileage and in the same manner as is
20 prescribed by law for judicial proceedings in civil cases.

21 The Department, upon a determination that probable cause
22 exists that a violation of one or more of the grounds for
23 discipline listed in Section 17 has occurred or is occurring,
24 may subpoena the records of an individual licensed under this
25 Act provided that prior to the submission of such records to

1 the Board, all information indicating the identity of any
2 resident shall be removed and deleted. The use of such records
3 shall be restricted to members of the Board and appropriate
4 staff of the Department for the purpose of determining the
5 existence of one or more grounds for discipline of the nursing
6 home administrator as provided for by Section 17 of this Act.
7 Any such review of individual residents' records shall be
8 conducted by the Board in strict confidentiality, provided that
9 such resident records shall be admissible in a disciplinary
10 hearing, before the Department, when necessary to substantiate
11 the grounds for discipline alleged against the administrator
12 licensed under this Act, and provided further that nothing
13 herein shall be deemed to supersede the provisions of Part 21
14 of Article VIII of the Code of Civil Procedure, as now or
15 hereafter amended, to the extent applicable, except that the
16 Department may disclose information and documents to a federal,
17 State, or local law enforcement agency pursuant to a subpoena
18 in an ongoing criminal investigation or to the Department of
19 Public Health in an ongoing investigation and administrative
20 proceeding regarding the license of a nursing home or facility.
21 Furthermore, information and documents disclosed to a federal,
22 State, or local law enforcement agency may be used by that
23 agency only for the investigation and prosecution of a criminal
24 offense. Information and documents disclosed to the Department
25 of Public Health may be used by that Department only for
26 investigation and disciplinary action regarding the license of

1 a nursing home or facility licensed by the Department of Public
2 Health.

3 The Secretary, the designated hearing officer, and any
4 member of the Board have the power to administer oaths at any
5 hearing that the Department is authorized to conduct and any
6 other oaths authorized in an Act administered by the
7 Department.

8 (Source: P.A. 95-703, eff. 12-31-07.)

9 (225 ILCS 70/38 new)

10 Sec. 38. Whistleblower protection.

11 Any individual or organization acting in good faith, and
12 not in a wilful and wanton manner, in complying with this Act
13 by providing any report or other information to the Department,
14 or assisting in the investigation or preparation of such
15 information, or by voluntarily reporting to the Department
16 information regarding alleged errors or negligence by a
17 licensee, or by participating in proceedings of the Department,
18 shall not, as a result of such actions, be subject to criminal
19 prosecution or civil damages.

20 Section 40. The Illinois Public Aid Code is amended by
21 changing Sections 5B-8 and 5E-10 as follows:

22 (305 ILCS 5/5B-8) (from Ch. 23, par. 5B-8)

23 Sec. 5B-8. Long-Term Care Provider Fund.

1 (a) There is created in the State Treasury the Long-Term
2 Care Provider Fund. Interest earned by the Fund shall be
3 credited to the Fund. The Fund shall not be used to replace any
4 moneys appropriated to the Medicaid program by the General
5 Assembly.

6 (b) The Fund is created for the purpose of receiving and
7 disbursing moneys in accordance with this Article.
8 Disbursements from the Fund shall be made only as follows:

9 (1) For payments to skilled or intermediate nursing
10 facilities, including county nursing facilities but
11 excluding State-operated facilities, under Title XIX of
12 the Social Security Act and Article V of this Code.

13 (2) For the reimbursement of moneys collected by the
14 Illinois Department through error or mistake, and for
15 making required payments under Section 5-4.38(a)(1) if
16 there are no moneys available for such payments in the
17 Medicaid Long Term Care Provider Participation Fee Trust
18 Fund.

19 (3) For payment of administrative expenses incurred by
20 the Illinois Department or its agent in performing the
21 activities authorized by this Article.

22 ~~(3.5) For reimbursement of expenses incurred by~~
23 ~~long term care facilities, and payment of administrative~~
24 ~~expenses incurred by the Department of Public Health, in~~
25 ~~relation to the conduct and analysis of background checks~~
26 ~~for identified offenders under the Nursing Home Care Act.~~

1 (4) For payments of any amounts that are reimbursable
2 to the federal government for payments from this Fund that
3 are required to be paid by State warrant.

4 (5) For making transfers to the General Obligation Bond
5 Retirement and Interest Fund, as those transfers are
6 authorized in the proceedings authorizing debt under the
7 Short Term Borrowing Act, but transfers made under this
8 paragraph (5) shall not exceed the principal amount of debt
9 issued in anticipation of the receipt by the State of
10 moneys to be deposited into the Fund.

11 (6) For making transfers to the designated funds, not
12 exceeding the following amounts, during in each State
13 fiscal year:

14 Aging Services Safety Fund: \$2,000,000.

15 Public Health Services Safety Fund: \$16,000,000.

16 Transfers under this paragraph (6) shall be made in
17 quarterly installments within 10 business days after the
18 payments have been received pursuant to the schedule of
19 payments provided in Section 5E-10 of this Code.

20 Disbursements from the Fund, other than transfers
21 authorized by law to the General Obligation Bond Retirement and
22 Interest Fund, shall be by warrants drawn by the State
23 Comptroller upon receipt of vouchers duly executed and
24 certified by the Illinois Department.

25 (c) The Fund shall consist of the following:

26 (1) All moneys collected or received by the Illinois

1 Department from the long-term care provider assessment
2 imposed by this Article.

3 (2) All federal matching funds received by the Illinois
4 Department as a result of expenditures made by the Illinois
5 Department that are attributable to moneys deposited in the
6 Fund.

7 (3) Any interest or penalty levied in conjunction with
8 the administration of this Article.

9 (4) Any balance in the Medicaid Long Term Care Provider
10 Participation Fee Fund in the State Treasury. The balance
11 shall be transferred to the Fund upon certification by the
12 Illinois Department to the State Comptroller that all of
13 the disbursements required by Section 5-4.31(b) of this
14 Code have been made.

15 (5) All other monies received for the Fund from any
16 other source, including interest earned thereon.

17 (Source: P.A. 95-707, eff. 1-11-08.)

18 (305 ILCS 5/5E-10)

19 Sec. 5E-10. Fee. Every nursing home provider shall pay to
20 the Illinois Department, on or before September 10, December
21 10, March 10, and June 10, a fee in the amount of \$2 ~~\$1.50~~ for
22 each licensed nursing bed day for the calendar quarter in which
23 the payment is due. This fee shall not be billed or passed on
24 to any resident of a nursing home operated by the nursing home
25 provider. All fees received by the Illinois Department under

1 this Section shall be deposited into the Long-Term Care
2 Provider Fund.

3 (Source: P.A. 88-88; 89-21, eff. 7-1-95.)

4 Section 99. Effective date. This Act takes effect October
5 1, 2010, except that this Section, Section 15, the changes to
6 Sec. 3-103 and Sec. 3-202 of the Nursing Home Care Act in
7 Section 20, and Sec. 5B-8 and Sec. 5E-10 of the Illinois Public
8 Aid Code in Section 40 take effect upon becoming law."